SUPREME COURT OF THE UNITED STATES.

No. 57.

WILLIAM HENDERSON, PLAINTIFF IN ERROR,

vs.

JOHN ANDERSON.

IN ERROR TO THE CIRCUIT COURT U. S. FOR EAST LOUISIANA.

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32.

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Be it remembered, that on the fourth day of March, in the year of our Lord eighteen hundred and forty-one, came John Anderson, by his attorneys, Peyton and Smith, into the United States Circuit Court, ninth circuit, in and for the eastern district of Louisiana, and filed the following petition, to wit:

To the honorable the judges of the circuit court of the United States, for the ninth judicial circuit, holding sessions at the city of New Orleans, in and for the eastern district of Louisiana.

The petition of John Anderson, who avers that he is a citizen of the State of Kentucky, residing in the city of Louisville, in said State, respectfully shows:

That William Henderson is a citizen of the State of Louisiana, residing in the parish of Carroll, in said State, and within the jurisdiction of this honorable court, and who is temporarily in New Orleans.

And that the said William Henderson is justly indebted in solido unto petitioner, in the sum of thirty-seven hundred and ninety-five dollars, with interest thereon at the rate of eight per cent. per annum, the legal interest in the State of Mississippi, where the debt sued for was contracted, from the eighth day of February, A. D. one thousand eight hundred and thirty-seven, until paid, and three dollars cost of protest, and five per cent. damages on the amount of said bill, to wit:

That petitioner is holder and owner of a certain bill of exchange, for the sum of thirty-seven hundred and ninety-five dollars, drawn by Thomas G. Green, endorsed and directed to Messrs. Briggs, Lacoste & Co., Natchez, which said bill was drawn to the order, and was endorsed by John Henderson & Co., dated at Warrenton, in the State of Mississippi, on the 3d February, 1837, payable twelve months after date, which said bill of exchange, on the 8th of February, 1837, was protested for non-acceptance, and on the sixth day of February, 1838, the day of maturity, was duly protested for non-payment by James B. Cook, a notary public, in the city of Natchez, duly commissioned and qualified, and that said John Henderson & Co. was, by said notary, duly notified of said protest for non-acceptance, and for non-payment by, all of which will appear by reference of said bill of exchange and protest thereof, and said bill of exchange annexed is made a part thereof.

At the time said bill was endorsed, petitioner avers that said William Henderson was a member of the late commercial firm of John Henderson & Co., formerly doing business at Warrenton, under the said style and firm of John Henderson & Co., and as a member of the said firm, he is now liable in solido to pay to petitioner the amount of said bill of exchange, with interest, cost, and damages,

and by the laws of the State of Mississippi petitioner is entitled to 5 per cent. damages on the amount of said bill.

Petitioner alleges further, that the said Wm. Henderson, though amicably requested, has neglected to pay the amount or any part thereof, for which he is indebted as aforesaid.

Wherefore petitioner prays, that the said Wm. Henderson be cited to appear and answer this petition, and after due proceedings, be condemned in solido to pay petitioner the aforesaid sum of thirty-seven hundred and ninety-five dollars, with interest at the rate of eight per cent. per annum until paid, three dollars costs of protest, five per cent. upon the amount of said bill, damages thereon, and costs of suit, and for general relief.

And as in duty bound, &c.,

(Signed) PEYTON & SMITH,
Attorneys for Petitioner.

Filed March 4th, 1841.

WARRENTON, *February* 3*d*, 1832.

Exchange for $3,795 00.

Twelve months after date of this my first of exchange, (second of the same tenor and date unpaid,) pay to the order of Messrs. John Henderson & Co. thirty-seven hundred and ninety-five dollars, value received, and charge the same to account of

Your most obedient *obedient*,
THOS. J. GREEN.

To Messrs. BRIGGS, LACOSTE & Co., *Natchez.*

Endorsed: JOHN HENDERSON & Co.
D. G. BARLOW & Co.

WARRENTON, *February* 3*d*, 1837.

Exchange for $3,795 00.

Twelve months after date of this my second of exchange, (first of the same tenor and date unpaid,) pay to the order of Messrs. John Henderson & Co. thirty-seven hundred and ninety-five dollars, value received, and charge the same to account of

Your most obedient servant,
THOS. J. GREEN.

To BRIGGS, LACOSTE & Co., *Natchez.*

Endorsed: JOHN HENDERSON & Co.
D. G. BARLOW & Co.

UNITED STATES OF AMERICA,
State of Mississippi, Adams county:

By this public instrument of protest, be it known, that on this sixth day of February, 1838, at the request of H. Drumdeville, Esq. cashier, the holder of the original draft, of which a true copy is hereon endorsed, I, James K. Cook, justice of the peace, and ex

officio notary public, residing in the city of Natchez, qualified according to law, went to the counting house of Briggs, Lacoste & Co., and presented said draft to Lacoste, and demanded payment of the same, which was refused.

Whereupon I, the said notary and justice of the peace, at the request aforesaid, do hereby solemnly and publicly protest the said draft, as well against the drawer thereof, as against the acceptors, endorsers, and all who are or may be concerned therein, for all exchange, re-exchange, costs, charges, damages, and interest, suffered or to be suffered, for the non-payment of said draft.

Thus solemnly done and protested.

[L. S.] Given under my hand, and the seal of my office, at Natchez, the day and year above written.

(Signed) J. K. COOK.

WARRENTON, *February* 3*d*, 1837.

Exchange for $3,795 00.

Twelve months after date of this my first of exchange, (second of the same tenor and date unpaid,) pay to the order of Messrs. John Henderson & Co. thirty-seven hundred and ninety-five dollars, value received, and charge the same to account of

Your obedient servant,

THOS. G. GREEN.

To Messrs. BRIGGS, LACOSTE, & Co., *Natchez*.

Endorsed: JOHN HENDERSON.
D. G. BARLOW & Co.

STATE OF MISSISSIPPI, *Adams county*:

I, James K. Cook, justice of the peace and ex officio notary public in and for said county, residing in the city of Natchez, qualified according to law, do hereby certify, that on the 6th day of February, in the year 1838, I went to the counting house of Briggs, Lacoste, & Co., and presented said draft to Chas. A. Lacoste, one of the firm of said Briggs, Lacoste & Co., in Natchez, and then and there presented for payment the original draft, of which the following is a true copy, together with the endorsements on the back of said draft.

WARRENTON, *February* 3, 1837.

Exchange for $3,795 00.

Twelve months after date of this my first of exchange, (second of the same tenor and date unpaid,) pay to the order of Messrs. John Henderson & Co. thirty-seven hundred and ninety-five dollars, value received, and charge the same to account of

Your obedient servant,

(Signed,) THOS. T. GREEN.

To Messrs. BRIGGS, LACOSTE & Co., *Natchez*.

Endorsed: JOHN HENDERSON & Co.,
D. G. BARLOW & Co.

And I then and there demanded payment of the said draft, according to its tenor and effect, and was answered by Lacoste that the said draft would not be paid, and that no funds were deposited with them for that purpose; and the said draft was not paid by any person, when payment thereof was demanded as aforesaid. Whereupon I protested said draft for non-payment, and notified the parties thereto of said demand, non-payment, and protest, and that the holder of said draft looked to them for payment thereof; which notices were given at the time, and addressed to and directed in the manner following, to wit: To John Henderson & Co., at Warrenton, State of Mississippi. All of which notices, directed to the parties respectively as aforesaid, were placed by me in the post office at Natchez, in time to go out by the first mail of the day next succeeding that on which said draft was protested as aforesaid. And the notices to the endorsers residing in the city of Natchez were delivered as follows: on the same day, by 9 o'clock A. M., to D. G. Barlow & Co., at their store, Natchez. Which facts constitute, as herein set forth, a full and true record of all that was done by me in the premises.

[L. S.] In testimony whereof, I have hereunto set my hand and affixed my official seal, this 17th day of November, 1841.

(Signed) J. K. COOK,
J. P. and Not. Pub.

STATE OF MISSISSIPPI, *Adams county:*

Personally appeared before me, the undersigned justice of the peace for the county aforesaid, James K. Cook, a justice of the peace and ex officio notary public, whose name is signed to the foregoing, and made oath that the same is a true statement, in substance and in fact, of his official acts and doings altogether in relation to the premises.

(Signed) J. W. COOK.

Sworn to and subscribed before me, this 17th day of March, 1841,

(Signed) WM. TURDEN.

STATE OF MISSISSIPPI, *Adams county:*

I, James K. Cook, justice of the peace and ex officio notary public in and for said county, residing in the city of Natchez, qualified according to law, do hereby certify that, on the 8th day of February, in the year 1837, I went to the counting house of Briggs, Lacoste & Co., in Natchez, and then and there presented for acceptance the original draft, of which the following is a true copy, together with the endorsements on the back of said draft.

WARRENTON, *February* 3, 1837.

Exchange for $3,795 00.

Twelve months after date of this my first of exchange, (first of the same tenor and date unpaid,) pay to the order of Messrs. Jno.

Henderson & Co. thirty-seven hundred and ninety-five dollars, for value received, and charge the same to account of

Your obedient servant,

THOMAS J. GREEN.

To Briggs, Lacoste & Co., *Natchez*.

Endorsed: John Henderson & Co.,
D. G. Barlow & Co.

And the said Briggs, Lacoste & Co. were then and there requested to accept the same; but that the said Briggs, Lacoste & Co. did not, nor would at the same time, when the said draft was so presented and shown to them for acceptance thereof as aforesaid, or at any time afterwards, accept the same, or pay the same, or any part thereof, but neglected and refused so to do. Whereupon I protested said draft for non-acceptance, and notified the parties thereto of said demand, non-acceptance, and protest, and that the holder of said draft looked to them for payment thereof, which notices were given at the times, and addressed to, and directed in the manner following, to wit: To Thomas G. Green, at Warrenton, State of Mississippi. All of which notices, directed to the parties as aforesaid, were placed by me in the post office at Natchez, in time to go out by the first mail of the day next succeeding that on which said draft was protested as aforesaid. And the notices to the endorsers, residing in the city of Natchez, were delivered as follows: on the same day, by 9 o'clock A. M., to D. G. Barlow & Co., at their store, in the city of Natchez. Which facts constitute, as herein set forth, a full and true record of all that was done by me in the premises.

[L. S.] In testimony whereof, I have hereunto set my hand and affixed my official seal, this 17th day of March, 1841.

(Signed) JAMES K. COOK.

State of Mississippi, *Adams county:*

Personally appeared, before the undersigned justice of the peace for the county aforesaid, James K. Cook, a justice of the peace and ex officio notary public, whose name is signed to the foregoing, and made oath that the same is a true statement, in substance and in fact, of his official acts and doings, altogether, in relation to the premises.

(Signed) J. W. COOK.

Sworn to and subscribed before me, this 17th day of March, 1841,

(Signed) WM. TURDEN.

The President of the United States of America,

To the marshal of the Eastern District of Louisiana, or his lawful deputy, greeting:

JOHN ANDERSON, *vs.* WM. HENDERSON. } No. 798.

To WILLIAM HENDERSON:

You are hereby commanded to summon William Henderson, and you, William Henderson, are hereby cited to comply with the demand contained in the petition of which a copy accompanies this citation, or deliver his answer to the same in the office of the clerk of the circuit court of the United States, ninth judicial circuit, and eastern district of New Orleans, in ten days after the service hereof, which delay is increased one day for every twenty miles the defendant's residence is distant from the place where the court is held.

Witness, the Hon. R. B. Taney, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, in the said eastern district of Louisiana, this fourth day of March, in the year of our Lord one thousand eight hundred and forty-one, and of the independence of the said United States of America the sixty-fifth year.

(Signed) DUNCAN N. HENNEN, *Clerk.*

Marshal's Return.

Received, March 11th, 1841, and on the 12th March, 1841, served a copy of the within citation, together with plaintiff's petition and documents annexed, on Wm. Henderson, in person, in the parish of Orleans.

(Signed) M. MARIGNY,
U. S. Marshal.
By WM. K. STILES,
Dy. U. S. Marshal.

And afterwards, to wit, on the 5th day of April, 1841, the following prayer for oyer was filed in the clerk's office of the U. S. Circuit Court.

CIRCUIT COURT UNITED STATES,
Eastern District of Louisiana.

JOHN ANDERSON, vs. WM. HENDERSON. }

Defendant prays oyer of the note and documents sued on in the above entitled cause, and prays that said cause be dismissed, unless said note and documents are exhibited and filed within the legal delay, &c.

(Signed) CHAS. M. EMERSON,
Defendant's Attorney.

Afterwards the following exceptions and answer was filed 7th of April, 1841:

UNITED STATES CIRCUIT COURT,
Eastern District, New Orleans, La.

JOHN ANDERSON,
vs.
WM. HENDERSON.

Now the defendant in the above entitled cause comes, by his undersigned counsel, and, by way of exception, says: he is not bound to answer hereto, because he has not been served with a true and correct copy of the petition in said cause, which by law he is entitled to, and has not been legally, nor in any way, cited to appear and answer to said suit.

Wherefore he prays to be dismissed hence with his costs, &c.

(Signed) CHAS. M. EMERSON,
Defendant's Attorney.

CIRCUIT COURT OF THE UNITED STATES,
Eastern District, Louisiana.

JOHN ANDERSON,
vs.
WILLIAM HENDERSON. No. 798.

Now comes the defendant in the above entitled cause, and, by way of exception, says: that he is not bound to answer thereto, because he has not received, nor been served with, a true and exact copy of the petition, which by law he is entitled to, and that he has not been legally cited to appear and answer herein. Wherefore he prays judgment, to be dismissed hence with his costs, &c.

And if the foregoing exception be overruled, he pleads the general denial. He denies that he is in any manner liable to pay the bill of exchange sued on. He avers, specially, that he neither signed and endorsed said bill himself, nor in any way authorized the name of said firm of John Henderson & Co. to be signed and endorsed on the same; that it was so signed and endorsed as aforesaid by one John Henderson, without the knowledge and consent of defendant, and without any authority whatever; that such endorsement was made neither for the benefit, nor for any debt or liability, of the defendant or of said firm, nor was it made within the scope of the partnership powers, or on account of said firm; but without any due authority, and without the knowledge and consent of the defendant, the said bill was signed and endorsed as aforesaid by said John Henderson, purely for the benefit and accommodation of the drawer, the said Thomas J. Green: of all which the parties to said bill, and the holders thereof, before and after matu-

rity, had due notice. Defendant requires strict proof of every allegation in the petition.

Wherefore he prays judgment, with his costs, &c.

(Signed) CHAS. M. EMERSON,
Defendant's Attorney.

On the 14th April, the following entry of record was made:

NEW ORLEANS, *April 14th*, (*Wednesday*,) 1841.

The court met pursuant to adjournment.

Present: The honorable John McKinley, presiding judge; the honorable P. K. Lawrence, district judge.

JOHN ANDERSON, vs. WM. HENDERSON. } No. 798.

This cause, which was fixed for trial for this day, was called; whereupon, on motion of Charles M. Emerson, Esq., defendant's counsel, and on filing the affidavit of defendant, it is ordered that this cause be continued, and that the defendant have leave to take out a commission to take testimony, directed to Edward R. Warren, a justice of the peace in Warren county, Mississippi.

And on the same day and year above mentioned, the following affidavit was filed:

UNITED STATES CIRCUIT COURT,
Eastern District of Louisiana.

JOHN ANDERSON, vs. WM. HENDERSON.

The defendant in the above entitled suit respectfully shows, that the testimony of John Henderson, who resides in the county of Warren, in the State of Mississippi, is material to his defence in the above suit.

Wherefore he prays that a commission be issued to Edward R. Warren, Esq., a justice of the peace residing at Vicksburg, in said county, to take and return the deposition of said John Henderson and others, witnesses, according to law, and according to interrogatories to be annexed thereto.

(Signed) CHAS. M. EMERSON,
Defendant's Attorney.
WM. HENDERSON.

UNITED STATES CIRCUIT COURT,
Eastern District, Louisiana, New Orleans.

Before me, the undersigned, personally appeared Wm. Henderson, defendant in the above entitled suit, and made oath that the

facts set forth in the foregoing application for a commission are true.

(Signed) WM. HENDERSON.

Sworn to before me, this 12th April, 1841.

(Signed) DUNCAN N. HENNEN, *Clerk.*

(Filed 14th April, 1841.)

And afterwards, to wit, on the 23d day of April, 1841, the following agreement was signed on the petition, by the attorneys of the respective parties, plaintiff and defendant.

Exception waived, and by consent of parties, this cause is continued until the next term of the court. April 23, 1841.

(Signed) PEYTON & SMITH,
For Plaintiffs.
CHAS. M. EMERSON,
For Defendant.

Entry of the same day and year above written.

Friday, April 23, 1841.

The court met pursuant to adjournment.

Present: The Hon. John McKinley, presiding judge.
" " P. K. Lawrence, district judge.

JOHN ANDERSON
vs. } No. 798.
WM. HENDERSON.

On motion of Peyton and Smith, and on filing the written consent of the defendant's counsel, the exceptions in this case are waived, and the cause continued until the next term.

Afterwards, on the 18th day of December, 1841, the following petition for commission and affidavit was filed.

JOHN ANDERSON
vs. } No. 798.
WM. HENDERSON.

CIRCUIT COURT OF THE UNITED STATES,
Eastern District of Louisiana.

The defendant in the above entitled suit now comes and says, that the testimony of John M. Cullen, who resides out of the jurisdiction of this court, and near Yazoo city, in the State of Mississippi, is material to his defence in said suit.

Wherefore, he prays that a commission, issued to R. E. Keys, Esq., a justice of the peace in and for the county of Yazoo, in said State of Mississippi, residing at said Yazoo city, to take the testi-

mony and deposition of said John M. Cullen, according to interrogatories to be submitted and annexed.

(Signed) CHAS. M. EMERSON,
Defendant's Attorney.

UNITED STATES OF AMERICA,
Eastern District of Louisiana, City of New Orleans.

Before me, the subscribing authority, personally appeared William Henderson, the above named defendant, and made oath that the foregoing facts, relative to the testimony and residence of John M. Cullen, are true.

(Signed) WILLIAM HENDERSON.

Sworn to and subscribed, before me, this 18th December, 1841.

(Signed) HENNEN, *Clerk.*

Afterwards, the following entry was made, to wit, on the 19th day of January, 1842.

The court met pursuant to adjournment.

Present: The Hon. Theo. H. McCaleb, district judge; Hon. John McKinley, presiding judge, absent.

JOHN ANDERSON
vs. } No. 798.
WILLIAM HENDERSON.

This cause came on this day for trial, Peyton and Smith appearing for the plaintiff, and C. M. Emerson, Esq., for the defendant, when, after hearing the evidence and arguments, the court took time to consider.

And afterwards, the following judgment was entered up, on the 23d of February, 1842, in favor of the plaintiff, and signed on the 9th day of March, 1842; which is in the figures and words following, to wit:

Wednesday, February 23.

The court met persuant to adjournment.

Present: The Hon. Theo. H. McCaleb, district judge; the Hon. John McKinley, presiding judge, absent.

JOHN ANDERSON
vs. } No. 798.
WILLIAM HENDERSON.

In this case, the court this day delivered its opinion. In conformity therewith, it is ordered, adjudged, and decreed, that judgment be entered up in favor of the plaintiff, and against the defendant, William Henderson, for the sum of thirty-seven hundred and ninety-five dollars, with interest of eight per centum per annum, from the

8th February, 1837, until paid, for three dollars costs of protest, and costs of suit. Judgment entered up 23d February, 1842. Judgment signed March 9, 1842.

(Signed) THEO. H. McCALEB,
United States Judge.

Afterwards, the following bill of exceptions was filed on the 25th day of February, 1842.

JOHN ANDERSON
vs.
WM. HENDERSON.

CIRCUIT COURT OF THE UNITED STATES,
For the Eastern District of Louisiana.

Be it remembered, that on the trial of the above entitled cause, the defendant's counsel, in order to prove the allegations set forth by the defendant in his answer, offered in evidence the deposition of one John Henderson, who, at the time of the drawing and endorsement of the bill of exchange sued on, was a co-partner with defendant, the firm doing business under the name and style of John Henderson & Co.; and especially, in order to prove that said John Henderson endorsed upon said bill the partnership name, without any authority whatever, without the knowledge or consent of defendant, and contrary to their articles of co-partnership, and the course of dealing of said firm; that it was so endorsed in the presence of the plaintiff, purely for the accommodation of the drawer, Thomas J. Green, in discharge of a promissory note held by the plaintiff against said Green; that said bill was not endorsed as aforesaid, for the accommodation, or on account of the said firm of John Henderson & Co., nor in any manner for the benefit of said firm of John Henderson & Co., nor in any matter in which said firm was interested; and that the plaintiff, when said bill was so drawn, and endorsed, and delivered to him, was fully cognizant of all the above facts. The plaintiff's counsel objected to the reception of said deposition, on the ground that the said John Henderson was incompetent to testify to any fact tending to invalidate the said bill, policy for the protection of commerce and the public morals requiring the rejection of such evidence. The court, after taking time to consider, sustained the objection, and rejected the deposition, on the ground taken, as aforesaid, by the plaintiff's counsel.

To this decision of the court, the defendant takes this his bill of exceptions, and prays that the same be allowed and signed by the court.

(Signed) THEO. H. McCALEB, [L. S.]
United States Judge.

The following deposition was offered in evidence, on the trial of this cause, and referred to in the bill of exceptions.

CIRCUIT COURT OF U. S., *9th Judicial Circuit,*
holding sessions in and for the E. Dis't of La.

To Edward R. Warren, a justice of the peace in *in* Warren county, Mississippi, or any other justice in said county, Know ye, that reposing special trust and confidence in your integrity, we hereby authorize and require you, that you call, and cause to come before you, certain witnesses, and them duly examine on oath, touching and concerning certain matters and things in a cause now depending in the said court, wherein John Anderson is the plaintiff, and William Henderson is defendant; and the same examinations, so taken and reduced to writing, you certify, under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send this writ.

Witness, the honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at the city of New Orleans, this 15th day of April, anno Domini 1841, and the 65th year of the independence of the United States of America.

(Signed) DUNCAN N. HENNEN, *Clerk.*

JOHN ANDERSON
vs. } No. 798.
WM. HENDERSON.

UNITED STATES CIRCUIT COURT,
Eastern District, Louisiana.

Defendant's Interrogatories.

1st. Look at exhibit marked "A" hereto annexed, and say, whether or no you subscribed upon the back of the bill of exchange of which said exhibit purports to be a copy, the name of John Henderson & Co. as endorsers; and if yea, whether or no you ever subscribed said name as endorsers upon any other bill of exchange of the same date, payable for the same sum, and at the same time, and having the same parties as drawer and drawees?

2d. State whether or no said bill of exchange was not so endorsed by you purely for the accommodation of Thomas J. Green, the drawer thereof; and whether or no it was drawn and endorsed in any manner for the benefit, accommodation, or on account of said firm of John Henderson & Co.?

3d. Have you or no had any other converse with said bill than to endorse it as above; and when endorsed, was it or not left by you in the hands of the drawer, Thomas J. Green, to be disposed of, as aforesaid, for his accommodation?

4th. State whether or no said bill was drawn by said Green in in payment or security of a debt due by him to the endorser or holder.

5th. State whether the articles of partnership of said firm of John Henderson & Co. were written or verbal; and if verbal, whether or no they authorized any member of the firm to use its name on bills or notes for the accommodation of other people, and whether or no the defendant, William Henderson, ever authorized or allowed you in any manner to use the name of the firm as aforesaid; but whether or no he had not, prior to the dissolution of the firm, repeatedly enjoined it upon you to use said name of John Henderson & Co. only in matters in which the firm was interested and concerned.

6th. State whether or no said bill was transferred by said Green to D. G. Barlow & Co., and by the latter to John Anderson, the plaintiff in this suit, before the maturity of said bill or afterwards; and whether or no he and the person or persons to whom said bill was transferred by said Green, were not cognizant of the circumstances under which said bill was drawn and endorsed, and of the fact, that it was drawn and endorsed for the accommodation of the drawer.

7th. State generally, what you know relative to said bill.

(Signed) CHARLES M. EMERSON,
Defendant's Attorney.

Exhibit A, referred to above.

WARRENTON, 3*d February*, 1837.

Exchange for $3,795 00.

Twelve months after date of this my first of exchange, (second of the same tenor and date unpaid) pay to the order of Messrs. John Henderson & Co., thirty-seven hundred and ninety-five dollars $\frac{00}{100}$ value received, and charge the same to account of

Your most obedient servant,

(Signed) THOMAS J. GREEN.

NATCHEZ.

JOHN HENDERSON & Co., D. G. BARLOW & Co.

February 8th, 1837—Protested for non-acceptance.

JAMES K. COOK, *J. P.*

WARRENTON, 3*d February*, 1837.

Exchange for $3,795 00.

Twelve months after date of this my second of exchange, (first of the same tenor and date unpaid,) pay to the order of Messrs. John Henderson & Co., thirty-seven hundred and ninety-five dollars $\frac{00}{100}$ value received, and charge the same to account of

Your most obedient servant,

(Signed) THOMAS J. GREEN.

To Messrs. BRIGGS, LACOSTE & Co., *Natchez.*

JOHN HENDERSON & Co.

D. G. BARLOW & Co.

February 8th, 1837—Protested for non-acceptance.

JAMES K. COOK, *J. P.*

I certify the foregoing exhibit, marked 'A', to be a true copy of the original bill of exchange, first and second thereof, now on file in the above entitled suit, together with the names of the endorsers on the reverse.

(Signed) DUNCAN N. HENNEN, *Clerk.*

The said plaintiff, reserving all exceptions to the admissibility of the answers to the foregoing interrogatories, propound the following cross interrogatories:

1st. Where was the firm of John Henderson established?

When was it formed, and when was it dissolved?

Where did you reside while said firm was in existence?

What is your relation to the defendant?

II. If you answer to any of the interrogatories in chief in the affirmative, please state what are your means of information as to each and every fact to which you testify?

III. Was not the firm of John Henderson & Co. a general commercial firm? Were there any written articles of co-partnership? If yea, annex to your answer a copy of them.

IV. Who was present at the drawing and the endorsing of said bill of exchange? What was it drawn for? What was the consideration for which it was passed to D. G. Barlow & Co.? And what was the consideration for which it was passed to the plaintiff in this suit? And when did the plaintiff become the owner of this bill of exchange? Was it before or since its maturity?

V. In settling up the affairs of the late firm of John Henderson & Co., who was to pay the debts of said firm? What agreement was made between you and the defendant in relation to the liabilities of said firm, and this debt among the rest?

VI. Do you know any thing which may aid said plaintiff in maintaining this action? If yea, please state the same fully and particularly.

(Signed) PEYTON & SMITH.
For Plaintiff.

In addition to the exception to the admissibility of the answers to the foregoing interrogatories, the said plaintiff also specially reserves all exceptions to the manner of issuing this commission to the interrogatories themselves, and the manner in which they are propounded.

(Signed) PEYTON & SMITH.

Depositions of a witness produced, sworn, and examined, by virtue of the annexed commission to me directed, on the thirtieth day of April, in the year of our Lord eighteen hundred and forty-one, in the city of Vicksburg, in the county of Warren, in the State of Mississippi, before me, Edward H. Warren, a Justice of the Peace, within and for the county and State aforesaid, in a certain cause now pending in the United Sates Circuit Court in the United

States Circuit Court, Eastern District of Louisiana, between John Anderson, plaintiff, and William Henderson, defendant, on the part of the said defendant.

John Henderson, being produced and sworn, answers as follows, to the interrogatories propounded to him in this cause:

Answer to interrogatories.

To interrogatory 1st. I have looked at exhibit marked A, *to* and recollect that I subscribed the name of John Henderson & Co. across the back of a bill of exchange, as endorser, for same amount, and same parties, and same date. I only signed the one bill, and its duplicate, or second, of same tenor and date, and same drawers, the name of John Henderson & Co.

To interrogatory 2d. The said bill of exchange was endorsed by me purely for the accommodation of the drawer, Thos. J. Green; it was not drawn nor endorsed for the benefit or accommodation, nor on account, of said firm of John Henderson & Co., in any way, it was so endorsed alone for the accommodation of the drawer, Thos. J. Green; which John Anderson, the plaintiff, in this suit, well knew at the time it came into his possession.

To interrogatory 3d. I have not had any other concern with said bill than to endorse it as above; and, when so endorsed, I left it in the hands of the drawer, Thos. J. Green, to be disposed of as before stated, for his accommodation.

To interrogatory 4th. The above bill was drawn by the said Green to pay a debt due by him to John Anderson, to plaintiff in this suit, or to take up a note of his to T. J. Green, that Anderson, the plaintiff in this suit, had traded some negroes for.

To interrogatory 5th. There was no written article of co-partnership between the parties, comprising the firm of John Henderson & Co.; the agreement was verbal, neither of the parties was authorized to sign the name of the firm on any note, bill of exchange, or other obligation, as endorser, or security, for the accommodation of any person or persons. The defendant in this suit, William Henderson, never authorized, consented, or allowed me, in any way or manner, to sign the name of said firm as endorser; but he did repeatedly, during said partnership, strictly enjoin it upon me not to use the name of the said firm as aforesaid. The said William Henderson never allowed me, nor consented that the said name of John Henderson & Co. should be used, only in matters in which said firm was interested and concerned.

To interrogatory [6.] The said bill of exchange was transferred or given by the drawer to John Anderson, the plaintiff in this suit, in my presence, in the name of D. G. Barlow & Co. was not on said bill at that time, nor do I know when it was endorsed by said Barlow & Co. The bill was given to Green, the drawer to said Anderson, before its maturity. The plaintiff in this suit was present at the drawing, and well knew the fact that I endorsed the name of John

Henderson & Co. on said bill, purely for the accommodation of the drawer, Green.

To interrogatory 7th. There was no written article of co-partnership between the parties composing the firm of John Henderson & Co.; it was a verbal agreement. The agreement did not authorize, nor allow any member of the said firm to sign the name as endorser; neither did William Henderson ever authorize, consent, or allow me to sign said name of John Henderson & Co. as endorser; the name of John Henderson & Co. was endorsed across said bill by me, without the authority, consent, or knowledge of the defendant, William Henderson, in this suit.

Answers to cross interrogatories.

To cross interrogatory 1st. The firm of John Henderson & Co. was formed on the first day of January, eighteen hundred and thirty-six, in the town of Warrenton, Warren county, Mississippi; and dissolved in the spring of eighteen hundred and forty. I resided in the said town of Warrenton during the existence of said firm of John Henderson & Co.; the defendant in this suit, William Henderson, is my father's brother, or, in other words, my uncle.

To cross interrogatory 2d. My means of information in relation to this suit of John Anderson, against William Henderson, is this: I was one of the partners in the firm of John Henderson & Co., and endorsed the name of said firm on said bill, and was conversant with the business of the said concern; in regard to said bill of exchange, on which this suit is founded, is this: that this bill was drawn in my presence, and passed by said Green, the drawer, to John Anderson, the plaintiff in this suit, for a note, or to take up a note, of said Green's, that Anderson had traded some negroes for; this I know from the statement of both the said Anderson, the holder of said bill, and Green, the drawer.

To cross interrogatory 3d. The firm of John Henderson & Co. was not a general commercial firm; they did not transact a general commercial business; it was a limited country business. The partnership was not intended for a general commercial firm, when it was commenced, nor [did] it do a general commercial business. There was no written contract between the parties composing the firm of John Henderson & Co.; the contract was verbal.

To cross interrogatory 4th. I believe that James Miller, and one Mr. Cullen, (first name not recollected,) Thomas J. Green, the drawer of said bill, and John Anderson, the plaintiff in this suit, (the two last I am confident,) were present, with myself, when Green drew, and I endorsed the name of John Henderson & Co. on, said bill. I don't know any thing of the endorsement of D. G. Barlow & Co., for I did not see them sign said bill, as endorsers; nor do I know any such firm or name. Said bill was drawn by Thos. J. Green, to take up a note that John Anderson, the plaintiff in this suit, had traded some negroes for. I did not pass said bill to D. G.

Barlow & Co., but returned it, after endorsing it, to the drawer, Green, who gave it to said Anderson, to take up his note that Anderson said he had traded some negroes for. Said bill was passed by the drawer, Green, to Anderson, the plaintiff in this suit, before its maturity.

5th. In settling up the affairs of the late firm of John Henderson & Co. I was to pay the debts contracted for the benefit of the said firm. There was no understanding between William Henderson and myself, about this bill of Green's, you refer to; nor do I believe William Henderson, the defendant in this suit, knew any thing of this endorsement until last winter.

6th. I know nothing further that would aid plaintiff in this action.

Signed, JOHN HENDERSON.

Sworn to and subscribed before me, this 30th April, 1841,

EDWARD R. WARREN, *J. P.*

STATE OF MISSISSIPPI, *Warren county:*

I, Edward Warren, a justice of the peace, in and for the county and State aforesaid, residing in the city of Vicksburg, qualified according to law, do hereby certify that I this day caused to appear before me, John Henderson, the witness mentioned in the caption, who, being by me duly sworn, true answers to make to the several interrogatories, and cross interrogatories, hereto annexed, did propound each and all of them to said witness; and he did at the same time reduce his answers to the interrogatories and cross interrogatories to writing, and signed the same in my presence.

Given under my hand and seal, this 30th April, 1841,

EDW'D. R. WARREN, *J. P.*, [L. S.]

And on the 24th February, 1842, the following entry of record was made:

THURSDAY, *February* 24, 1842.

The court met, pursuant to adjournment.

Present: The honorable Theodore H. McCaleb, district judge. The honorable John McKinley, presiding judge, absent.

JOHN ANDERSON,)
vs. } No. 798.
WM. HENDERSON.)

Now comes the defendant in the above entitled suit, after final judgment herein rendered, and within the legal delay, and, by his undersigned counsel, moves the court that a rule be taken upon the plaintiff to show cause, at such time as the court may direct, why the said judgment should not be set aside and a new trial granted, on the grounds, generally, that said judgment is clearly contrary to law and evidence, and especially on the ground that the court improperly rejected the evidence depositions of John Henderson, offered by defendant's counsel to prove that the bill of

exchange sued on was endorsed by said John Henderson, without any authority, and without the knowledge and consent, of the defendant, his co-partner, contrary to their articles of co-partnership, in a matter in which their firm was in no wise interested, purely for the accommodation of the drawer, he, the plaintiff, having been present when said bill of exchange was drawn and endorsed, and well knowing the partnership name of John Henderson & Co. was endorsed by said John Henderson purely for the accommodation, aforesaid, of said drawer. Which motion being submitted by consent, the same is ordered to be overruled.

And afterwards, to wit., on the 12th April, 1842, the following petition and bond for writ of error was filed, by the clerk of the U. S. circuit court, in the office of the said court in and for the eastern district of Louisiana.

JOHN ANDERSON,
vs.
WILLIAM HENDERSON.

United States Circuit Court, District of Louisiana.

Now, the defendant in the above entitled suit comes to this honorable court, after final judgment, and within the delay by law in such case allowed, and says that said judgment is erroneous, and, for causes of error, among others, assigns the following, to wit: That the court erred in not admitting the depositions of John Henderson to be introduced and used on the trial of the cause by the defendant, for the purpose of showing that, at the time of the drawing and executing the bill of exchange sued on, the defendant and said John Henderson were partners in business, under the name or style of John Henderson & Co.; that, according to their articles of co-partnership, which had not been reduced to writing, the partners were forbidden to use the partnership name in any matter, concern, or business with which said firm was not connected, and in which it was not interested; that it was not usual or customary for said name so to be used by either of the partners; that, contrary to their said articles and the stipulations of their partnership agreement, the said John Henderson did sign and endorse, on the reverse of the said bill, their said partnership name of John Henderson & Co., without any authority, and without the knowledge or consent of the defendant, who remained ignorant of the said use and endorsement for a long time after it was so made as aforesaid, and in no way ever ratified, consented to, or confirmed the same afterwards; that said endorsement was not made in any matter, business, or concern in which the said firm was, in any way or manner, interested, or with which they were in the least degree interested, or with [which] they were in the least degree connected; that it was so made, in the presence of the plaintiff, the said John Anderson, purely and simply for the accommodation

of the drawer of the said bill; and that the said John Anderson was fully cognizant of all the above facts, and especially that said bill was so endorsed for the accommodation of said drawer, Thomas J. Green.

Wherefore, for the error aforesaid, in not admitting the said John Henderson's deposition, to prove that the said bill was so, as aforesaid, endorsed without authority, &c., and for other errors on the face of the record apparent, the said defendant appeals from said judgment, and prays that a writ of error may be allowed and granted to the Supreme Court of the United States, returnable according to law and rules of said court, whereby the said judgment may be examined, revised, and reversed, or confirmed by the said Supreme Court; and he prays, also, that the record in this case, and all the proceedings under the same, and the testimony, may be duly certified and sent up, &c. &c., offering to give such bond as the court may direct.

(Signed) CHAS. M. EMERSON,
Defendant's attorney.

Judge's order.

Be it so, on the plaintiff in error entering bond, conditioned according to law, in the sum of five hundred dollars, with John N. Donohue as surety. THOS. H. McCALEB,
Judge U. S.

JOHN ANDERSON,
vs.
WILLIAM HENDERSON.

Know all men by these presents, that we, William Henderson, as principal, and John N. Donohue, of the parish of Carroll, in the eastern district of Louisiana, as surety, are held and firmly bound unto John Anderson, his heirs, executors, administrators, and assigns, in the sum of five hundred dollars, for the payment whereof we bind ourselves, our heirs, executors, and administrators, firmly by these presents: sealed with our seals, signed with our hands, and dated this 29th day of March, A. D. 1842.

Whereas the above bounden William Henderson has obtained a writ of error to the Supreme Court of the United States, seeking the reversal of a final judgment rendered against him on the 23d day of February, A. D. 1842, in the circuit court of the United States in and for the eastern district of Louisiana, at the suit of John Anderson *vs.* William Henderson. Now, therefore, the obligation aforesaid is conditioned as follows, to wit: if the above bound William Henderson shall prosecute his said writ of error, and shall satisfy whatever judgment may be rendered against him, or if the same shall be satisfied by the proceeds of the sale of his estate, real or personal, this obligation to be void, otherwise to remain in full force.

WM. HENDERSON, [L. S.]
JOHN N. DONOHUE. [L. S.]

UNITED STATES OF AMERICA,
Eastern District of Louisiana, parish of Carroll:

Before me, the undersigned authority, personally appeared John N. Donohue, a subscriber to the foregoing bond, and made oath that he is in possession of property, all his own, of a greater value than the sum of one thousand dollars, after the payment of all his debts.

JOHN N. DONOHUE.

Sworn to and subscribed before me, this 29th day March, 1842.

THOS. N. MORGAN,
Associate Judge.

UNITED STATES OF AMERICA, *ss:*

The President of the United States,

To the honorable the judges of the circuit court of the United States for the ninth circuit and eastern district of Louisiana, greeting:

Because, in the record and proceedings, as also the rendition, of the judgment of a plea which is in the said circuit court, before you, or some [of] you, between John Anderson, plaintiff, and William Henderson, defendant, a manifest error hath happened, to the great damage of the said William Henderson, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the party aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ; so that you have the same at Washington, on the second Monday of January, eighteen hundred and forty-three, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Hon. Roger B. Taney, Chief Justice of the said Supreme Court, this 9th day of April, in the year of our [L. S.] Lord one thousand eight hundred and forty-two.

DUNCAN N. HENNEN, *Clerk.*

Copy of the writ of error lodged in the clerk's office, in pursuance of the statute in such case made and provided.

CHAS. M. EMERSON,
Defendant's attorney.

Clerk's certificate.

I, Duncan N. Hennen, clerk of the circuit court of the United States, ninth circuit, in and for the eastern district of Louisiana, do hereby certify that the foregoing twenty-nine pages contain a

full, faithful, and true transcript of the records, and proceedings, and evidence adduced on the trial of the case of John Anderson *vs.* William Henderson, as far as the same now remains on file in the said court.

In testimony whereof, I have hereunto set my hand and the seal of the said court, at the city of New Orleans, this 25th day [L. S.] of May, 1842, and the 66th year of the independence of the United States of America.

DUNCAN N. HENNEN, *Clerk.*

I, Theodore H. McCaleb, district judge of U. S. district court for the eastern district of Louisiana, and one of the judges of the United States circuit court, ninth circuit, eastern district of Louisiana, do hereby certify that Duncan N. Hennen is the clerk of the United States circuit court, ninth circuit, eastern district of Louisiana, and that due faith and credit are due to his acts as such, and that his certificate is in due form of law.

[L. S.] Witness my hand and seal, this 25th day of May, 1842.

THEO. H. McCALEB,
Judge U. S.

Filed 13th August, 1842.

Copie.

Par devant nous, Augustin Dominique Tureaud, juge de la paroisse St. Jaques, comté d'Acadie, y résidant.

Fut présent le sieur Antoine Tregre, habitant, propriétaire domicilié et résidant à la paroisse St. Jean Baptiste des Allemands, lequel a, par les présentes, vendu, cédé, quitté, transporté des maintenant et pour toujours, sous toutes les garanties de droit, et notamment de toutes espèces de troubles, eviction, ou empêchemens généralement quelconque, aux sieurs John McDonogh & Co., icí présents et acceptant pour eux et ayant causes, les immeubles et meubles ci-après détaillés. Savoir: 1o. Une habitation de quatre arpens de face sur la profondeur qui pourra y correspondre d'après les titres et procés verbaux que le dit vendeur s'oblige de délivrer aux dits acquereurs et à leur premiére requisition, la dite habitation, située sur la rive gauche du Mississippi, distant de seize lieues, environ, de Nouvelle Orléans, bornée par en haut par l'habitation du sieur Martin Dubourg, et par en bas par celle des dits sieurs acquereurs, la quelle terre provient au sieur vendeur, de deux arpens qu'il avait acquis du sieur Pierre Matherne par acte passé au greffe de cette paroisse le vingt huitiéme jour du mois d'Aout mil huit cents un, et les deux autres arpens proviennent au dit sieur vendeur, d'un échange qu'il a fait avec le sieur Jean Berry, par acte passé à notre greffe le troisieme jour du mois de Juin de l'année mil huit cents.

2o. Toutes les bêtes à cornes qui pourront se trouver sur la dite habitation, ou dans les environs, qui se trouveront étampés AT.— ainsi que les écrois qui pourront en provenir, à l'exception, cependant, de deux vaches étampées comme ci-dessus, l'une noire que le dit Tregre déclare avoir vendue au sieur Alexandre Chenet, et l'autre rouge qu'il a vendue au sieur Jaques Chauvin.

Par convention expresse, le sieur vendeur se réserve tous les cypres qui sont à terre, dans le moment, sur l'habitation qu'il a vendue aux dits sieurs McDonogh, jr. & Co., ainsi que la faculté d'abattre à sa commodité, cinquante cypres à son choix.

Cette vente est faite, avec les réserves y stipulées, pour le prix et somme de six mille gourdes, formant le prix convenu entre les parties, la quelle somme sera payable comme suit: Savoir, quinze cents piastres payables comptant, que le dit sieur Tregre reconnoit avoir reçu; quinze cents piastres le quatrieme jour du mois de Mars mil huit cents treize; quinze cents piastres le quatrieme jour du mois de Mars mil huit cents quatorze, et finalement, pareille somme de quinze cents piastres payable le quatrieme jour du mois de Mars de l'année mil huit cents quinze, cequi forme, en total, la sus dite somme de six mille piastres, pour la quelle le dit sieur vendeur s'oblige, par le présent, de donner bonnes et valables quittances et décharges lorsque le dernier paye[ment] aura été effectué entre les mains du dit venduer. En conséquence de ce que dessus et

d'autre part, les dits sieurs acquereurs consentant que la dite habitation restera spécialement hypothequée jusqu'au parfait payement.

Fait et passé en notre office, à la paroisse St. Jaques, comté d'Acadie, le quatriéme jour du mois de Mars de l'année mil huit cents douze, et de l'indépendance Américaine la trente sixieme année, en présence des sieurs Martin Dubourg et Douradon Bringier, tous deux temoins requis et domiciliés dans cette paroisse, lesquels ont, ainsi que les parties, signé avec nous, juge sus-dit, aprés lecture faite. Ainsi signé à la minute, Antoine Trégre, John McDonogh, jr. & Co., Martin Dubourg, temoin, Ml. Doradon Bringier, temoin, A. D. Tureaud, juge.

Pour copie conforme à l'original resté déposé dans les archives de cette paroisse, pour recours. En foi de quoi j'ai délivré le présent signé de ma main, et scellé du sceau de mon office, à la paroisse St. Jaques, comté d'Acadie, le sixieme jour du mois de Mars de l'année mil huit cents douze, et de l'indépendance Américaine la trente sixieme.

[L. S.] A. D. TUREAUD, *Juge.*

ENDORSEMENT.

No. 103, T. No. 34, Millaudon & al. *vs.* McDonogh, filed 18th April, 1839.

G. WHERRY.

45.

[*For Map, see original.*]

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Don Carlos Trudeau, agrimensor real y particular de la provincia de la Louisiana, &a.

Certifico aver medido lindado y amejonado à favor y en pretencia de Don Henerique Fonteneau y con assistancia de los vecinos imediatos, un terreno de ocho arpanes quatro toisas y tres pies de frente, medidos sobre la linea punteado del plano quien va perpendicular al limite de abajo, cuyo terreno situado en la costa de los Allemanes, en el distrito de la parroquia San Juan Bautista, sobre el margen ezquierdo y en frente del rio Mississippi, a como veinte digo quarenta y tres millas de distancia de la ciudad de Nueva Orleans, rio arriba en el Barrio vulgarment llamado la Vachery; lindando de un lado con tierra de Gillar y Pedro Bourgeois, y del otro lado con otras del Herrero Gabriel Cloutier; los limites avren ô se anchen sen acia la profundura de nueve grados, el superior comun con tierras de Pedro Bourgeois dirigido en profundura al norte diez minutas oeste, y el inferior comun con tierra de Gabriel Cloutier dirigido en el mismo fondo al norte ocho grados cinquenta minutas este de la actual aguja sin attender à la variacion; en aquel limite se hallaron dos mojones de madera de cipres, quienes segun reclamaciones de los interresados fueron plantados por el señor ayudante mayor de plaza Don Louis Andry, comisionado à este efecto, en el limite superior comun con Pedro Bourgeois hiye plantar dos mojones de madera de cipre, el primero a trenta toises de distancia dè la orilla del rio, y el segundo a quarenta toisas mas por atras acia el fundo, el todo como se demuestra en el plano de la Buelta; este apeo sepratico para la particion de la tierra de la succession de Don Francisco Delille Duparc, haviendo los herederos vendidos cada uno su porcion, à saver: Madame Macnemara à favor del ante d'ho Henerique Fontenau, Mons'r. Cornut y los herederos Delille dos porciones à favor de los señores Gillard y Bourgeois, Mons. de Mandeville à favor del mulato Alexandre Lanuze, una porcion; el heredero Duparc el hijo solo se queda con la ultima porcion quien es la mas arriba medianero con la primera costa Acadianos; el todo como consta por mis diligencias de los dias en el mes do Marzo de mil setecientos ochenta y siete. Repetidos en virtud del decreto del señor governador gen-

eral Don Estevan Miro, en fecha del dia diez y siete del mes de Septiembre del ante d'ho año; los nueve y diez del mes de Agosto del presente año. Doy la presente sacado del plano formado de la particion quien para en la officina de Ag'r G'l. No. 275. Nota que los vendedores de estas tierras: declaran que esta tierra devia contener trenta y cinco arpanes de frente con todo el fondo hasta el lago Maurepas, por aver sido asi comprado de los Indios en el año 1739, pero en la verification que hize del frente, se hallaron quarenta arpanes veinte y tres toisas de frente por lo que correspondré à cada quinta porcion ocho arpanes quatro toises y tres pies de frente al rio, y para que el presente sirve donde convenga, le doy a pedimiento de parte à veinte y quatro del mes de Septiembre de 1790 años. (Signed) CARLOS TRUDEAU, *Ag'r.*

Sacado del plano No. 271, porcion No. 5, de la Vachery.

LAND OFFICE, EASTERN DISTRICT OF LOUISIANA,
Register's Office, New Orleans.

I, B. Z. Canonge, register of the land office at New Orleans, do hereby certify that the foregoing plan, as well as the survey, are true copies, takén from book No. 6, pages Nos. 242 and 243, forming part of the archives of this office.

In faith whereof, I hereunto subscribe my name this 19th day of October, 1836.

B. Z. CANONGE, *Reg'r.*

ENDORSEMENT.

No. 102, B.B, No. 42. Millaudon & al. *vs.* McDonogh. No. 16,911, filed 19th April, 1839. G. WHERRY.

3,734, Supreme Court, filed March 29th, 1841.
A. CUVILLIER, *Clk.*

46.

[For Map see original.]

3

ENDORSEMENT.

Millaudon & al. *vs.* McDonogh. Plan not marked in testimony.
16,911.
3,734. Supreme Court, filed March 29th, 1841.
A. CUVILLIER, *Clk.*

Cote d'Acadie, rive gauche du Mississippi, paroisse St. Jacque.

[For Map see original.]

Plan extrait de nos operations de réarpentage, faite dans les année 1806, 1808, et 1812, les qu'elles lignes en divers tems ont été parcouru jusqu'à la riviere Amite, et démarqué conformément aux lignes du plan, les quelles terres, provienent des sauvages Collapissa, qui sur cette partie possedaint une terre considerable, qu'ils avoint vendu à Mr. Dupart Delile ; lesqu'elles portions ont été acquise par Mr. J. McDonogh et compagnie, tant de Mr. Tregre que de Eastern Shore of Maryland Louisiana Company, que de Mr. Le Bourgois ; les qu'elles contienent les superficie tant en acre Anglais, qu'en arpent Français, sous les No. 1, 5285½ arpens et 4983 acres. No. 2, 30371⅕ arpens, 28473 acres. No. 3, 46010⅔ arpens ou 43135 acres. Pour copie conforme, Nouvelle Orleans, le 8 Juillet, 1812.

F. V. POTIER, *Arpenteur juré*,
et appointé par Mr. Isaac Briggs, arpenteur général des Etats Unis.

Nota.—Observe que l'on croi que le titre du sieur Dominique Provest, porte une portion sur la terre du No. 1, Mr. Tregre et No. 2 of Maryland Louisiana Company, ce qui n'est pas contuté n'en ayant pas vu le titre. F. V. POTIER.

ENDORSEMENT.

[15]—Millaudon & al. *vs.* Mc Donogh, 16,911, filed 1st May, 1839.
G. WHERRY.

No. 3734, Supreme Court, filed March 29th, 1841.
A. CUVILLIER, *Clk.*

Cote d'Acadie, rive gauche du Mississippi, paroisse St. Jacque.

[For Map see original.]

Plan extrait des minutes de nos opérations de réarpentage, fait dans l'année 1806, 1808 et 1812, lesqu'elles lignes, en divers tems, ont été parcouru jusqu'à la riviere Amite, et démarqué conformement aux lignes du plan. Lesqu'els qu'elles terres provienent des sauvages Collapissa, qui sur cette partie possedaint une terre considérable, qu'ils avoint vendu à Mr. Dupart Delile, les qu'elles portion ont été acquise par Mr. J. McDonogh et compagnie, tant de Mr. Trégre que de Eastern Shore of Maryland Louisiana Company, que de Mr. Le Bourgois, les qu'elles contienent les superficie tant en acre Anglais qu'en arpent Francais, sous les No. 1, 5285½ arpens, et 4983 acres; No. 2, 30371⅕ arpens, 28473 acres; No. 3, 46010⅔ arpens, ou 43,135 acres. Pour copie conforme, Nouvelle Orléans, le 8 Juillét, 1812.

F. V. POTIER, *Arpenteur juré*,
Commissioné par Mr. Isaac Briggs, arpenteur général des Etats Unis.

Nota.—Observe que l'on croi que le titre du sieur Dominique Provest porte une portion sur la terre du No. 1, Mr. Tregre et No. 2, of Maryland Louisiana Company. Ce qui n'est pas contuté n'en ayant pas vu les titres. F. V. POTIER.

ENDORSEMENT.

No. 21, recorded in book A, beginning at page 6.
SAM'L H. HARPER, *Register*.
Millaudon & al. *vs.* McDonogh, filed 18th April, 1839.
G. WHERRY.
No. 3,734, Supreme Court, filed March 29th, 1841.
A. CUVILLIER, *Clk*.

Comté d'Acadie, paroisse St. Jacque, rive gauche du Mississippi, No. 161.

For Map see original.

No. 226. Moi sous signé fortifie avoir été réquis par Monsieur Antoine Treigre, à l'effet de lui délivrée un plan conforme à une terre qu'il nous a declare être de quatre arpens de face sur quarante de profondeur, laqu'elle avait deja été arpenté par Mr. Andry, et dont il n'avait pas le plan, nous ayant déclaré qu'elle lui appartinent pour l'avoir acquire en portion different deux arpens de Mr. Jacque Materne, et les deux autres de Mr. Pierre Materne, et les aurapport de Mr. Cantrelle, juge du comté, que l'acte dessente était déposé au gréffe, et qu'il lafournirait si le cas le réquirait.

Pour le nous avons été reconnoitre les bornes limitrophes entre le réquirant et le sieur Pierre Lanois posées par Mr. Andry, sur les qu'elles ayant posé notre graphomêtre. Nous les avons reconnu bourné par nord trente quatre dégrées ouest, les qu'elles bornes sont de cypre-équarrie en tête de Diamond, la premiere marquée au plan A est à rotoires de la levé du fleuve, et la seconde B à un arpent de la premiere. Ayons reconnu le rectangle, nous aurions été réconnoître les bornes entre le réquirant et le sieur Christophe Mayer, aussi plantier par Mr. Andry, la premiere C est éloigné de la levé du fleuve à rotoires, et la seconde D à un arpent dit celle, les qu'elles bornes sont de cypre semblable aux précédentes, et trouvé à mon graphomêtre par nord trente cinq dégrés ouest, ce qui donne au réquirant une ouverture d'une dégré conformement au plan cy joint.

Le réquirant nous ayant declaré être satisfait, nous auroit requis une expédition de nôtre opération pour lui servie et valui en vers qui de droit.

Fait et elv. le 20 Dec'bre, 1806.

F. V. POTIER, *Dpté. arpenteur.*

Collationé certifie pour copie conforme à l'original, en datte de sejour.

F. V. POTIER.

Enregistré au livre coté A, No. 226, fo. 367, 368 et 369 des reclamationes des terres pour les comtées d'Accadie et d'Iberville, paroisse St. Jacques, le vingt quatre Décembre, mil huit cent six; et de l'indépendance des Etats Unis d'Amérique la trente uniéme année.

MICHEL CANTRELLE, *S. Députe.*

ENDORSEMENT.

No. 104, W. No. 37, Millaudon & al. *vs.* McDonogh, filed 18th April, 1839.

G. WHERRY.

No. 3,734, Supreme Court, filed March 29th, 1841.

A. CUVILLIER, *Clk.*

Comté d'Acadie, No. 131, fol. 239, li. C.

For Map see original.

Quartier de la Longue Vue de la Ramée.

Aux Acadiens, le 10 du mois de Juillet de l'année 1808 et la 33eme année de l'indépendance des Etats Unis de l'Amérique.

Je, Alexandre Trouard, commissionné par le soussigné Barthelemy Lafon, arpenteur député par Isaac Briggs, arpenteur général des territoires sud du Ténnessée, certifie m'être transporté à la réquisition de M. L. H. Guerlain, agent g'l de la compagnie comme sous le nom de Eastern Shore of Maryland Louisiana Company, sur une terre située à seize lieues au dessus de la ville pour en mesurer l'étendue ; fixer les bornes ou les renouveler si besoin était ; établir les lignes entre voisins limitrophes.

Etant sur les lieux, je l'ai requis de me produire les pieces qui l'autorisait à faire exécuter l'opération, et il m'a produit les pièces suivantes.

and the 3 of the independence of the United States of America.

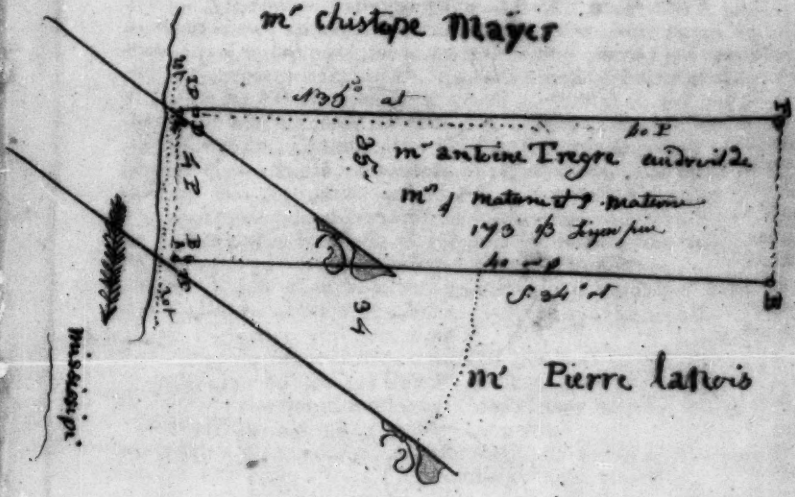
I, Bartholomew Lafon, deputy surveyor of the county aforesaid, duly appointed by Isaac Briggs, esq., surveyor of the lands of the United States, south of the State of Tennessee, do certify that at the request of

I have surveyed his land, fixed stakes thereon, or renewed them as necessary, and established the lines or courses between the neighboring lands.

And being on the place, I have requested to exhibit to me the documents which authorised to have this operation executed, and presented me the following ones :

La Table de La Source 3 lignes pour Lacquant
et 1 ligne pour Lacquant ne passe dans

1.° 6.



[For map see original.]

The south boundary of this township was surveyed by O. Simpson, deputy surveyor, in the spring of 1830; the balance by Thomas P. Evans, deputy surveyor, in the winter of 1830.

P. D. SURVEYOR'S OFFICE, *Donaldson.*

Examined and approved, April 11th, 1831.

A. F. RIGHTOR, *P. D. Surveyor.*

REGISTER'S OFFICE, *New Orleans.*

The above is a true copy of township No. 10 south, of range No. 6 east, on file in this office.

In faith whereof I hereunto subscribe my name, this 16th day of October, 1838.

B. Z. CANONGE, *Register.*

Register's Office.—Received 12th September, 1838.

ENDORSEMENT.

No. 44. Millaudon & al. vs. McDonogh. No. 16,911, filed 19th April, 1839.

G. WHERRY.

3,734. Supreme Court, filed March 29th, 1841.

A. CUVILLIER, *Clk.*

[For map see original.]

This country was surveyed by Thomas P. Evans, deputy surveyor, in the winter of 1830.

P. D. SURVEYOR'S OFFICE.

Examined and approved, Donaldson, April 9th, 1831.

A. F. RIGHTOR, *P. D. Surveyor.*

REGISTER'S OFFICE, *New Orleans.*

The above is a true copy of township No. 10 south, of range No. 5 east, on file in this office.

In faith whereof I hereunto subscribe my name, this 16th day of October, 1838.

B. Z. CANONGE, *Register.*

Register's Office.—Received 12th September, 1838.

REGISTER'S OFFICE, *New Orleans.*

Section No. one is not colored in the original of the foregoing township plat on file in this office, but was represented as it now appears, at the request of John McDonogh, esquire.

P. A. ST. MARTIN, *Register.*

ENDORSEMENT.

No. 43. Millaudon & al. vs. McDonogh. No. 16,911, filed 19th April, 1839.

G. WHERRY.

No. 3,734. Supreme Court, filed March 29th, 1841.

A. CUVILLIER, *Clk.*

Cote d'Acadie, rive gauche du Mississippi, paroisse St. Jacque.

[For map see original.]

10

Plan extrait des minutes de nos operations d'arpentage faite dans les années 1806, 1808, et 1812, lesquelles lignes en divers tems ont été parcouru jusqu' à la rivière Amite et demarquée conformément aux lignes du plans. Lesquelles terres proviennent des sauvages Collapissa qui sur cette partie possedoient une terre considerable qu'-ils avoient vendu à Mr. Dupard de Lile lesquelles portion ont été acquise par Mr. J. McDonogh et compagnie tant de Mr. Tregre que de Eastern Shore of Maryland Louisiana Compagnie que de Mr. Le Bourgeois lesquelles contiennent les superficie tant en acre Anglais qu'en arpent Français sous les No. 1, 5,285 arpens $\frac{1}{2}$ et 4,983 acres; No. 2, 30,371 arpens $\frac{1}{5}$ 28,473 acres; No. 3, 46,010 arpens $\frac{2}{3}$ ou 4[3],135 acres, pour copie conforme. Nouvelle Orleans, le 8 Juillet, 1812. Commissionné par Mr. Isaac Brigs, arpenteur general des Etats Unis.

Signed, F. V. POTIER,
Arpenteur Juré.

Nota. Observe que l'on croit que le titre du Sieur Dominique Provest porte une portion sur la terre du No. 1. Mr. Tregre et No. 2 of Maryland Louisiana Company, ce qui n'est pas contaté n'en ayant pas vus le titre.

(S'd,) F. V. POTIER.

REGISTER'S OFFICE, *New Orleans.*

The foregoing plat, and written instrument annexed to the same, are true copies of part of the evidence offered in support of the claim of John McDonogh, jr. & Company, No. 406, as taken from one of the records now in my possession, and forming part of the archives of this office.

In faith whereof I hereunto subscribe my name, this 17th day of April, 1839.

P. A. ST. MARTIN, *Register.*

ENDORSEMENT.

Millaudon & al. vs. McDonogh, filed 19th April, 1839. No. 3,734, Supreme Court, filed March 29th, 1841.

A. CUVILLIER, *Clk.*

Southeastern District, Louisiana. T. 11, R. 5 E.

[For Map see original.]

The east, west, and south boundaries of this township were surveyed by Stephen Roberts, deputy surveyor, in 1829. The private claims by A. H. Foster, deputy surveyor, in the spring of 1830. The balance by Thomas P. Evans, deputy surveyor, in the winter of 1830.

P. D. SURVEYOR'S OFFICE,
Donaldson, April 9th, 1830.

Examined and approved.
Signed,
A. F. RIGHTOR,
P. D. Surveyor.

SURVEYOR'S OFFICE,
Washington, Miss., April 5th, 1832.

Re-examined and approved.
Signed,
GIDEON FATZ,
Surveyor of the public lands south of Tennessee.

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, 10th Oct., 1838.

The above is a true copy of an approved map of township No. 11, range No. 5 east, south eastern district, Louisiana, on file in this office.

H. T. WILLIAMS,
Surveyor General, La.

REGISTER'S OFFICE, NEW ORLEANS.

The above is a true copy of township No. eleven, south of range No. five east, on file in this office.

P. A. ST. MARTIN,
Register.

ENDORSEMENT.

No. 45, Millaudon & al. *vs.* McDonogh, No. 16,911, filed 19th April, 1839.

G. WHERRY.

No. 3,734, Supreme Court, filed March 29th, 1841.

A. CUVILLIER, *Clk.*

Cote d'Acadie, rive gauche du Mississippi, paroisse St. Jacque.

[For Map see original.]

I, P. A. St. Martin, register of the land office at New Orleans, do hereby certify that the within plat is the true copy of the plan produced by John McDonogh & Co. in support of their claim No. 406, which said claim was confirmed by act of Congress of May 11th, 1820.

P. A. ST. MARTIN, *Register.*

REGISTER'S OFFICE, *New Orleans.*

The above is a true copy taken from the plat recorded in this office, as part of evidence offered in support of the claim of John McDonogh, jr. & Co., No. 406.

In faith whereof I hereunto subscribe my name this 1st day of May, 1839.

P. A. ST. MARTIN,
Register.

ENDORSEMENT.

No. [9] Millaudon & al. *vs.* McDonogh, filed 1st May, 1839.
G. WHERRY.

No. 3,734, Supreme Court, filed March 29, 1841.
A. CUVILLIER, *Clk.*

Luisiana, 1790, distrito de Cabxanosse, 10 Agusto, 1790, Carlos Trudeau.

[For map see original.]

13

I certify the present plat of survey to be an exact copy of the original, filed No. 13, bundle letter M, amongst the records of the surveyor general in my charge.

In testimony whereof, I have hereunto set my hand and seal of office in the city of New Orleans, this 15th day of April, 1839.

[L. S.] LS. BRINGIER, *Surv'r Gen'l.*

ENDORSEMENT.

Plan of Carlos Trudeau, in 1787, of the middle portion of the land now claimed by McDonough.

No. 2. Millaudon & al. vs. McDonogh, 16,911, filed 30th April, 1839.

G. WHERRY.

No. 3,734, Supreme Court, filed March 29th, 1841.

A. CUVILLIER, *Clk.*

Luisiana año 1796. Costa Alemanes paroquia San Juan B'a Barrio llamado la Vacherie.

[For map see original.]

14

N'a que la tierra de la sucession avia de ser de trenta y cinco arpanes de frente segun declaracion de los interessados y conforme a las escrituras de ventas passados por los herederos a favor de Henrique Fonteno Gelar, Pedro Lebourgeois, Alexandre Lange, mulato y Dn. Frn'co Duparc, hijo, el solo que no vendio su porcion, pero en la verificacion que hize en el mes de Marzo, 1787, repetido los dias nueve y dies Agusto del corriente año dicha hallose contener quarenta arpanes con veinte tres tuesas de frente al rio Mississipi medidos sobre las lineas punteas a, b, c, d, e, f, g, h, j, k, l, y, n, o, de todo lo que doy fé.

Aguste, 10 de 1790. Signed,

CARLOS TRUDEAU.

I certify the foregoing plat of survey and proces verbal, to be a true copy of an original plan filed No. 44, amongst the records in the office of the surveyor general, under my charge.

In testimony whereof I have hereunto set my hand and seal of office in the city of New Orleans, this 23d day of March, [L. S.] 1839 of our Lord, and the sixty-third of the independence of the U. S. of America.

LS. BRINGIER, *Surv'r Gen'l.*

ENDORSEMENT.

No. 110. No. 23, L. Millaudon & al. *vs.* John McDonogh, filed 18th April, 1839.

G. WHERRY.

No. 3,734, Supreme Court, filed March 29th, 1841.

A. CUVILLIER, *Clk.*

SUPREME COURT OF THE UNITED STATES.

No. 61.

JOHN McDONOGH, PLAINTIFF IN ERROR,

vs.

LAURENT MILLAUDON AND AL.

IN ERROR TO THE SUPREME COURT OF THE STATE OF LOUISIANA.

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Writ of Error.

UNITED STATES OF AMERICA, *ss.*

The President of the United States to the honorable the judges of [L. S.] the supreme court of the State of Louisiana, and holding sessions for the eastern district of Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court, before you, or some of you, between Laurent Millaudon, John Slidell, Joachim Kohn, as well in his own capacity as syndic of the creditors of Henry G. Schmidt and Frederic Frey, Chas. Frederick Zimpel and Henry T. Williams, and John McDonogh and Abraham F. Rightor called in warranty, a manifest error hath happened, to the great damage of the said John McDonogh as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the second Monday in January next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this sixth of July, in the year of our Lord one thousand eight hundred and forty-two.

[L. S.] A. CUVILLIER,
Clerk of Supreme Court of Louisiana, Eastern District.

Citation.

The United States of America, to Laurent Millaudon, John Slidell, Joachim Kohn in his own right and as cyndic of the creditors of H. G. Schmidt and Fred. Frey, H. T. Williams, Chas. F. Zimpel and Abraham F. Rightor, greeting:

You are hereby cited and admonished to be and appear at a supreme court of the United States, to be holden at the city of Washington on the second Monday of January next, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Louisiana for the eastern district, wherein John McDonogh is plaintiff in error and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable R. B. Taney, chief justice of the Supreme Court of the United States, this seventh day of July, in the year of our Lord one thousand eight hundred and forty-two.

F. X. MARTIN, *J. S. C.*

Marshal's Return.

Received, New Orleans, November 10th *November*, 1842; and on the 11th same month and year served copies of the within *citation in error* on Laurent Millaudon, Joachim Kohn, Frederick Frey and H. G. Schmidt in person in the city of New Orleans; and on 15th day of November, 1842, served a copy of same on John Slidell by handing the same to him in person in the city of New Orleans; and on H. T. Williams same day, in person, in New Orleans; and on A. F. Rightor by handing the same to him in person, in the parish of Ascension, 82 miles from New Orleans, the 16th November, 1842; and also, on Chas. F. Zimple, (he being absent) on his power of attorney Frederick Frey, in person, in the city of New Orleans, and returned this 17th day of November, 1842.

A. SIDNEY ROBERTSON, *U. S. M.*
By WM. K. STILES,
Dy. U. S. M., E. D. of La.

UNITED STATES OF AMERICA,
Supreme Court, E. D., State of Louisiana.

Copy of the transcript of the proceedings had in the district court, for the first judicial district, in a certain suit wherein Lt. Millaudon and others were plaintiffs, and John McDonogh was defendant.

STATE OF LOUISIANA,
First Judicial District Court.

LAURENT MILLAUDON & al., vs. JOHN MCDONOGH. } No. 16,911.

Petition filed December 11, 1838.

To the honorable the district court, in and for the first judicial district of the State of Louisiana:

The petition of Laurent Millaudon, John Slidell, Joachim Kohn, as well in his own capacity as syndic of the creditors of Henry G. Schmidt and Frederick Frey, all residing in New Orleans, respectfully shows:

That, on the 17th May, 1836, they purchased, in conjunction with Chas. Frederick Zimpel and Henry T. Williams, by public act, passed before Felix Grima, notary public of New Orleans, from Abraham F. Rightor, of the parish of Ascension, a tract of land forming a portion of that generally known as the Houma Grant, situated in the rear of the three plantations or tracts of land in the parish of Ascension, in the State of Louisiana, on the left bank of the river Mississippi, owned by Duredon Bringier, François Laville, and the heirs of Wade Hampton, commencing in the rear of the two former plantations, at the distance of eighty arpens from the river Mississippi, and at the distance of one hundred and twenty acres in the rear of the plantation of the said Wade Hampton, which tract of land contains ninety thousand four hundred and thirteen superficial arpens; and the *lines* of which tract of land, run from the rear of said plantation to Lake Maurepas and the Amite river, the whole, agreeably to a plan certified by H. T. Williams, surveyor general of the State of Louisiana, on the 7th of May, 1836, and deposited in the office of the said Felix Grima; copy of which plan is hereto annexed, and referred to as part of this petition. The above property was purchased by your petitioners in the following proportions, to wit: Laurent Millaudon three-ninths, John Slidell one-ninth, Joachim Kohn one-ninth, Henry G. Schmidt one-ninth, Frederick Frey one-ninth, the remaining two-ninths being purchased by Chas. F. Zimpel and Henry T. Williams, in equal portions; all of which will more fully appear by reference to copy

Alexander Latille, Barthelemy Magnemara, and Maurice Conway, have purchased from the chief of the Indian tribes, Bayagoula and Houma, by act passed before Andres Almonaster y Roxas, then a notary public in the city of New Orleans, on the fifth day of October, seventeen hundred and seventy-four, a certain tract of land, of which the tract hereby conveyed constitutes a portion.

By an act executed before the said Don Andres Almonaster y Roxas, notary aforesaid, the said Alexander Latille sold to Barthelemy Magnemara the portion accruing to him of the above mentioned purchase, with the exception of ten arpens in front, with the ordinary depth, which he reserved to himself.

By another act before the same notary, dated on the fifth day of April, seventeen hundred and seventy-five, the said Alexander Latille sold and conveyed to the said Barthelemy Magnemara the ten arpens so reserved by him; by means of which sales the said Barthelemy Magnemara became the owner of the undivided two third parts of the said tract of land purchased from the said Indian tribes.

By another act executed before the said notary, Dn. Andres Almonaster y Roxas, on the fourth day of January, seventeen hundred and seventy-six, the said Barthelemy Magnemara sold to the said Maurice Conway the two undivided thirds, thus accruing to him by virtue of the two above mentioned sales, in the tract of land thus purchased from the said Indian tribes; by which sales the said Maurice Conway became the sole owner of the said tract of land.

The said Maurice Conway, afterwards, to wit, on the twenty-first day of June, seventeen hundred and seventy-seven, obtained from the Count de Galvez, the Governor of the province of Louisiana, a concession or grant of all the lands situated in the rear of his said tract of land of the Houmas.

By an act executed before Antonio Rodriguez, then a notary public in this city, on the twenty-seventh day of October, seventeen hundred and eighty-six, the said Maurice Conway sold to William Conway a tract of land, composed of twenty-seven arpens in front, on the river Mississippi, more or less, with all the depth which it had, according to the titles of the concession granted to him by the said Count de Galvez, by his decree of the twenty-first of June, seventeen hundred and seventy-seven; the said tract of land being then bounded on one side by Patrice Conway, and on the other side by that of Henderson, the same which he had acquired with a larger portion from the said Barthelemy Magnemara, by the aforesaid act before the aforesaid Don Andres Almonaster y Roxas, on the fourth day of January, seventeen hundred and seventy-six.

And the claim of the said William Conway to a tract of land situated in the county of Acadia, at a place called the Houmas, containing twenty-two and a half arpens in front, on the river Mississippi, with an opening towards the rear of sixty degrees, forty-five minutes, the upper line running N. 9° 15′ E., three hundred and

fifty-one arpens, and the lower line direct N. 70° E., and measuring four hundred and fifty-five arpens; bounded on the upper side by lands then belonging to Daniel Clark, and on the lower by lands of Simon Laneau, was confirmed by the board of commissioners for the eastern district of the Territory of Louisiana.

The said William Conway died in the county of Acadia, in the territory of Orleans, in the year eighteen hundred and eleven, leaving four children, named John Conway, James Conway, Mary Conway, now the wife of Antoine Maurin, and the said Mrs. Elizabeth, alias Betsy Conway, now the wife of the said Abraham Francis Rightor; and by his olographic last will and testament, bearing date the fourteenth of April, eighteen hundred and seven, the said William Conway did bequeath, 1st, unto the said John Conway, six arpens in front of his said tract of land of the Houmas, with all the depth to which he was entitled according to the said titles and plan made by Barthelemy Lafon, surveyor, on the tenth day of January, eighteen hundred and six, as the said six arpens are described in the said last will; 2d, unto the said James Conway, six arpens in front of the said land, with all the depth aforesaid, which six arpens are also described in the said last will; 3d, and to his two aforenamed daughters, all the residue of his said plantation or tract of land.

By an act, executed before Philippe Carlier Doutremer, parish judge, and ex officio notary public, in and for the said parish of Ascension, in this State, on the twenty-eighth day of June, eighteen hundred and twenty-three, the said Mrs. Mary Conway, wife of Antoine Maurin, duly assisted and authorized by her said husband, conveyed and sold the portion accruing to her by the last will and testament of her said father, in the said tract of land, unto Jean F'ois Laville.

By an act, under private signature, between the said Jean F'ois Laville and the said Abraham Francis Rightor, dated the twelfth day of January, eighteen hundred and thirty-six, the said Jean François Laville bound himself to sell and convey unto the said Abraham Francis Rightor, his portion of the rear land acquired by him from the said Mrs. Mary Conway, wife of the said Antoine Maurin, which promise of sale was confirmed and ratified by the said parties by written agreement, under private signature, dated twentieth of January, eighteen hundred and thirty-six, as the whole appears by the said act and agreement, duly recorded in the office of the parish judge, of the said parish of Ascension, on the 1st day of February, eighteen hundred and thirty-six, in register No. 13, pages 8 and 9.

By another act, executed before John H. Isley, a notary public in and for the said parish of Ascension, on the seventeenth day of February, eighteen hundred and thirty-six, the said John Conway sold and conveyed to the said Abraham Francis Rightor, his portion of the land situated in the rear of the tract of land sold by him to Augustus S. Phelps, and which he had inherited of his father, the

said William Conway. By means of which purchases, the said Abraham Francis Rightor became the owner of the two portions abovementioned, accruing to the said Mrs. Mary Conway, wife of Antoine Maurin, and to the said John Conway. And the said Mrs. Elizabeth Ann Conway, wife of the said Abraham F. Rightor, remained in possession of the portion accruing to her, and which is hereby conveyed.

And the said James Conway being still the owner and proprietor of the portion inherited by him, it is well understood that the said portion does not constitute a part of the present sale.

To have and to hold the said described and sold premises unto the said purchasers, and to their heirs and assigns for ever. And the said vendors do hereby further promise, that they and their heirs shall and will for ever warrant and defend the property herein conveyed, against all legal claims and demands whatever.

The said vendors moreover transfer, unto the said purchasers, all the rights and actions of warranty, to which they themselves are entitled, against all former proprietors of the property herein conveyed, subrogating the said purchasers to the said rights and actions, to be by them enjoyed and exercised, in the same manner as they might have been by the said vendors.

The present sale is made and accepted for, in consideration of the sum of two dollars and fifty cents per each superficial arpent of said tract of land, making together the total sum of two hundred and twenty-six thousand thirty-four dollars and eighty-four cents, payable one-seventh in cash, and the balance at one, two, three, four, five, and six years credit, without interest. Therefore, in deduction of the aforesaid sum of two hundred and twenty-six thousand thirty-four dollars and eighty-four cents, the said purchasers have immediately paid, each in the proportion of his aforesaid interest and share in the present sale, the total sum of thirty-two thousand two hundred and ninety dollars and seventy cents, unto the said vendors, who hereby acknowledge the receipt and delivery of the same, and grant unto the said purchasers a full and entire acquittance and discharge for the said sum; and for the balance, to wit: the sum of one hundred and ninety-three thousand seven hundred and forty-four dollars and fourteen cents, the said purchasers have immediately produced and furnished, each in the proportion of his aforesaid interest, the following promissory notes, to wit:

The said Laurent Millaudon, for the amount of the proportion to be paid by him, at the abovementioned terms of credit, on the said sum of one hundred and ninety-three thousand seven hundred and forty-four dollars and fourteen cents, which proportion, consisting of the three-ninths thereof, amounts to the sum of sixty-four thousand five hundred and eighty-one dollars and thirty-nine cents, has produced and furnished six several promissory notes, all subscribed by him, on this seventeenth day of May instant, in favor of the said Abraham F. Rightor, each of said notes being for the sum of

ten thousand seven hundred and sixty-three dollars fifty-six and a half cents, and payable respectively at one, two, three, four, five, and six years from date.

And the said John Slidell, Henry Godfrey Schmidt, Joachim Kohn, Frederick Frey, Charles F. Zimpel, by his said attorney Frederick Frey, and Henry T. Williams, by his attorney in fact John Slidell, for the amount of the proportion to be paid by each of them, at the abovementioned terms of credit, on the aforesaid sum of one hundred and ninety-three thousand seven hundred and forty dollars and fourteen cents, which proportion being of one-ninth for each of said purchasers, amounts, for each of them, to the sum of twenty-one thousand five hundred and twenty-seven dollars and twelve cents and a half, have produced and furnished each six several promissory notes, subscribed by them respectively, on this seventeenth day of May instant, in favor of Abraham Francis Rightor, each of said notes being for the sum of three thousand five hundred and eighty-seven dollars eighty-five and one-third cents, and payable, respectively, at one, two, three, four, five, and six years after date.

All which abovementioned promissory notes, amounting together to the said total sum of one hundred and ninety-three thousand seven hundred and forty-four dollars and fourteen cents, after having been paraphed and countersigned, ne varietur, by me, notary, to be identified with the present act, have been handed and delivered over to said Abraham Francis Rightor, who does hereby acknowledge the receipt and delivery of the same.

And, in order to secure the full and punctual payment of the aforesaid promissory notes, at the respective periods of maturity thereof, the said purchasers declared that they do by these presents affect, mortgage, and specially hypothecate, the herein described and sold premises, in favor of the said vendors, hereby promising and binding themselves not to alienate, incumber, nor deteriorate the said property, to the prejudice of this mortgage.

It is agreed, and well understood, by and between the said parties, that the said purchasers shall have, and they do hereby reserve to themselves, the right at all times to discount such portion of the abovementioned respective instalments as they may wish, at the rate of eight per cent. per annum; and the said vendors do hereby agree, whenever thereunto required, to raise the mortgage hereby granted, on any portion of said land hereby conveyed, not less in one undivided body than two thousand arpens, on the payment, after the discount above stipulated, of the price of purchase, to wit: two dollars and fifty cents per arpent of said tract of land.

And the said vendors, Abraham Francis Rightor and Elizabeth Ann Conway, his wife, have produced and delivered over the following titles of said property to the said purchasers, who do hereby acknowledge the receipt and delivery of the same, to wit:

1st. A certified copy of the act of conveyance by Barthelemy

Magnemara to Maurice Conway, executed before Dn. Andres Almonaster y Roxas, then a notary public in this city, on the fourth of January, seventeen hundred and seventy-six.

2d. A certified copy of the act of conveyance by the said Maurice Conway to William Conway, executed before Antonio Rodriguez, then a notary public in this city, on the twenty-seventh day of October, seventeen hundred and eighty-six.

3d. A certified copy of the confirmation of the claim of William Conway, by the board of commissioners of the land office for the eastern district of the then territory of Orleans.

4th. A certified copy of the plan of survey of the said tract of land of the Houmas, made by Barthelemy Lafon, the surveyor in the Territory of Louisiana, on the tenth day of February, eighteen hundred and six.

5th. A certified copy of the olographic last will and testament of the said late William Conway, dated the fourteenth day of April, eighteen hundred and seven.

6th. A certified copy of the deed of conveyance by the said Mrs. Mary Conway, wife of Antoine Maurin, to Jean François Laville, by act executed before Phillippe Carlier Doutremer, then parish judge, and ex officio notary public, in and for the said parish of Ascension, on the twenty-eighth day of June, eighteen hundred and twenty-three.

7th. A certified copy of the agreement entered into between the said Jean François Laville and the said Abraham Francis Rightor, dated the twelfth day of January, eighteen hundred and thirty-six, ratified and confirmed by the said parties on the twentieth day of January, in the same year, as the same was recorded in the office of the parish judge, of the said parish of Ascension, on the first day of February now last past.

8th. And a certified copy of a deed of conveyance of the said John Conway, of the said parish of Ascension, to the said Abrahan Francis Rightor, by an act executed before John H. Isley, a notary public in and for the said parish of Ascension, on the seventeenth day of February, eighteen hundred and thirty-six.

And the said Abraham Francis Rightor and Elizabeth Ann Conway, his wife, do hereby further obligate and bind themselves towards the said purchasers, to produce and furnish to them, within the delay of six months from the date of the present act, the following titles to the said property, to wit:

1st. The original application made by Maurice Conway, for the concession of said land, and the warrant of survey granted to him thereupon.

2d. The original certificate of survey made of the said tract of land.

3d. The patent or original concession of the said tract of land made by Dn. Galvez, the then Governor of the territory of Louisiana.

According to the certificate of the parish judge and ex-officio recorder of mortgages in and for the said parish of Ascension, bearing date the thirteenth day of the present month of May, and hereunto in the margin annexed for reference, it results that there is no mortgage standing in the name of the said Abraham Francis Rightor, and the said Mrs. Elizabeth Ann Conway, his wife, on the property which is the object of the present sale; but that there are certain mortgages of a general nature standing on that portion of the said tract of land which was acquired by the said Abraham Francis Rightor from the said Jean François Laville, and recorded against the said Jean François Laville, the owner of the said portion of said land; of which mortgages, resulting from judgments obtained and recorded in the said parish of Ascension against the said Jean François Laville at different periods, I, the said notary, did give cognizance to the said purchasers, by reading to them the above mentioned certificate hereunto annexed.

And here the said Abraham Francis Rightor declared that the amounts appearing due by the aforesaid Jean François Laville, and from which judgments have been obtained against him, have been since paid, and the said judgments satisfied.

And the said Abraham Francis Rightor further declared, that he does hereby promise and bind himself to cause the said mortgages to be cancelled and annulled, and erased from the books of the recorder of mortgages for the said parish of Ascension; and further to produce, within a delay of six months from the date hereof, a certificate from the parish judge and ex-officio recorder of mortgages for the said parish of Ascension, showing that the said mortgages have been duly cancelled; which certificate shall be annexed to the present act.

And whereas the two portions of the said land acquired by the said Abraham Francis Rightor from the said Jean François Laville, and from John Conway, were purchased by the said Abraham F. Rightor since his marriage with the said Mrs. Elizabeth Ann Conway, and therefore, during the community existing between them, the other portion of the said tract of land being a separate property of the said Mrs. Elizabeth Ann Conway, and which she has sold by these presents:

Now therefore, she, the said Mrs. Elizabeth Ann Conway, wife of the said Abraham Francis Rightor, duly authorized by her said husband, the said wife being above the age of majority, did declare unto me, notary, that it is her wish and intention to release, in favor of the said purchasers, the property herein conveyed by her said husband, from the matrimonial, dotal, paraphernal, and other rights, and from any claims, mortgages, and privileges to which she is or may be entitled, whether by virtue of her marriage with the said Abraham Francis Rightor, or otherwise.

Whereupon the said notary did inform the said wife, apart and

out of the presence and hearing of her said husband, that she has by law a legal mortgage on the property of her said husband:

1st. For the restitution of her dowry, and for the reinvestment of the dotal property sold by her husband, and which she brought in marriage, reckoning from the celebration of the marriage.

2d. For the restitution and reinvestment of the dotal property by her acquired since marriage, whether by succession or donation, from the day the succession was opened or the donation perfected.

3d. For nuptial presents.

4th. For debts by her contracted with her said husband.

5th. For the amount of her paraphernal property, alienated by her and received by her said husband, or otherwise disposed of for the individual interest of her said husband, *or otherwise disposed of for the individual interest of her said husband;* that, by making a renunciation of her said rights, she diverts herself and her heirs, at all times hereafter, from all claims against the property of her said husband herein conveyed.

And the said wife did thereupon declare unto me, notary, that she was fully aware of, and acquainted with, the nature and extent of the matrimonial, dotal, paraphernal, and other rights and privileges thus secured to her by law on the property of her said husband, and that she nevertheless did persist in her intention of renouncing, not only all the rights, claims, and privileges herein before enumerated and described, but all others, of any nature or kind whatever, to which she is or may be entitled by any laws now or heretofore in force in the State of Louisiana.

And the said Abraham Francis Rightor being now present, aiding and authorizing the said Mrs. Elizabeth Ann Conway, his wife, in the execution of these presents, she, the said wife, did again declare that she did, and does hereby, make a formal renunciation and relinquishment of all her said matrimonial, dotal, paraphernal, and other rights, claims, and privileges, in favor of the said purchasers, hereby binding herself and her heirs at all times to sustain and acknowledge the validity of this renunciation.

Thus done and passed at the city of New Orleans aforesaid, in the office of the undersigned notary, on the day, month, and year first before written, in the presence of Messrs. Theodore Guyol and John Randolph Welch, both competent witnesses hereto required, and residing in this city, who have signed these presents with the parties and me, notary, after reading of the act.

Signed—John Slidell; Henry G. Schmidt; Millaudon; Joachim Kohn; for H. T. W. Williams, jr., Slidell; Elizabeth A. Rightor; A. F. Rightor; Fred. Frey, p. proc.; C. F. Zimpel; Fred. Frey; Theo. Guyol; John R. Welch.

FELIX GRIMA, *Not. Pub.*

I do certify the foregoing to be a true copy of the original act extent for reference among the records of my office.

In witness whereof, I grant these presents, under my signature and the impress of my official seal, at the city of New Orleans, on this first day of November, one thousand eight hundred and thirty-eight, and in the sixty-third year of the independence of the United States of America.

(Signed) F'X GRIMA, *Not. Pub.*

Answer.

L. MILLAUDON & al., vs. JOHN MCDONOGH. } Answer—filed January 5th, 1839.

The defendant, for answer to the said plaintiffs' petition, says: That the said plaintiffs not having set forth and exhibited, with their said petition, the documents upon which their pretended title to the land mentioned in said petition is based, this respondent cannot answer specially to the same; but reserving to himself all right to call hereafter for the exhibition of the titles of said plaintiffs, and to answer more fully and particularly to the said petition, he now answers and says, that he denies all and singular the allegations in the said petition contained; and he specially denies that the said plaintiffs have any right or title to the land mentioned in, and claimed by, the said petition. And he further avers that he, the said defendant, is the true and lawful owner of the said land, by good and lawful title; and he prays that the same may be adjudged to him as such, with his costs of suit, &c., and that he may have all such other judgment and relief in the premises as justice and the nature of his case may require.

And he further prays that the said plaintiffs may be cited to answer this his claim in re-convention for the said land, and may be compelled to produce and exhibit their said titles, and this defendant quieted and maintained in his possession of the said land, &c.

(Signed) JNO. R. GRYMES, *for Deft.*

Answer of Plaintiffs to re-convention and call in warranty, filed January 28th, 1839.

To the honorable the District Court in and for the First Judicial District of Louisiana.

Laurent Millaudon, John Slidell, Frederick Frey, Joachim Kohn, as well in his own name as in the capacity of syndic of the creditors of H'ry G. Schmidt, for answer to the petition or demand in re-convention of John McDonogh, says: That, reserving to themselves the benefit of the exception to the insufficiency and uncertainty of said petition, they deny all and singular the allegations thereof, and especially that the said McDonogh has any claim or title to the land therein referred to, or any portion thereof. Your petitioners allege that they purchased said land from Abraham F. Rightor, as set forth in their original petition, and as will appear by refer-

ence to the duly authenticated copy of act of sale before F. Grima, notary public, on the 17th of May, 1836, attached to said petition.

They show that, should the allegations of said John McDonogh be well founded, and it should appear that he has a valid title to the land in question, or to any part thereof, exceeding five per centum of the whole quantity, they desire to rescind the entire purchase, alleging, as they do, that they would not have purchased any portion of said land had they been aware of the claim or title of said McDonogh. They allege that the said Rightor, when he sold the said land to your petitioners, well knew that the claim or title of said McDonogh existed, but concealed said knowledge from your petitioners; and if said title be good, is a vendor in bad faith, responsible for all damages which your petitioners have sustained, or may hereafter sustain, by their purchase from him.

Your petitioners allege that they have expended large sums of money for and on account of said purchase, to wit: the sum of fifteen thousand dollars, being for costs of sale, examination of titles, professional services, compensation to lawyers by them employed, the surveying and dividing said land into convenient tracts for the purposes of sale, for taxes and other charges on said property, and the purchase of various machinery for the establishment of a railroad, saw mill, &c., on said tract of land. That they paid to said Rightor, at the time of the execution of said act of sale, the following sums, to wit: your petitioner, Laurent Millaudon, ten thousand seven hundred and sixty-three $\frac{57}{100}$ dollars; Joachim Kohn, Fred. Frey, John Slidell, and H. G. Schmidt, each three thousand five hundred and eighty-seven $\frac{85}{100}$ dollars; and also gave to said Rightor the following notes in payment of price of said land, to wit: Laurent Millaudon, his six notes, each for $10,763 57, and payable, respectively, at one, two, three, four, five, and six years from 17th May, 1836; and your other petitioners, each six notes, at one, two, three, four, five, and six years from date, each for $3,587 85. That said land has been totally unproductive to them, they having purchased with the intention of cutting a portion of the wood thereon, and of disposing of said land in subdivisions at public sale, but have been prevented from doing either the one or the other by the discovery of the alleged claim or title of said John McDonogh soon after the purchase of said land. Your petitioners pray that they may be permitted to call in warranty the said Abraham F. Rightor, who resides in the parish of Ascension, that he be cited to answer this petition, and defend them against the suit of said McDonogh; that should said McDonogh establish his title to said land, or to any portion thereof, exceeding five per centum of the whole, the said sale may, so far as regards your petitioners, be rescinded; that they do recover, in the proportion of their respective interests, from said Rightor the aforesaid sum of $15,000 by them expended in and about said land, and also the sums severally paid by them to said A. F. Rightor, with interest from the day of payment, to

wit: 15th May, 1836, until paid, and costs of suit; that for these amounts they be declared to have a lien and especial privilege upon such portion of the land purchased from said Rightor as may not be recovered by said McDonogh; that said Rightor be further decreed to cancel and surrender the notes or obligations so as aforesaid given by him to said Rightor for the price of said land; and that your petitioner have all other and further just and equitable relief.

(Signed) JOHN SLIDELL,
For L. MILLAUDON & AL.

MILLAUDON & al.
vs.
JOHN McDONOGH. } Order.—February 20th, 1839.

On motion of J. T. Preston, esq., the court order that a delay of ten days from this date be allowed to file the answer of A. F. Rightor, called in warranty, to warranty.

L. MILLAUDON & al.
vs.
JNO. McDONOGH. } Order.—March 13th, 1839.

On motion of Jno. Slidell, esq., of counsel for the plaintiffs, and on showing to the court that the defendant has failed to answer, though duly cited, it is ordered that judgment by default be entered against him.

L. MILLAUDON & al.
vs.
JNO. McDONOGH. } Order.—March 16th, 1839.

This day came P. A. Guyol on behalf of the plaintiffs, and, in conformity to the request made by the defendant, filed the documents Nos. 1, 2, 3, 4, 5, 6, 7, and 8.

L. MILLAUDON & al.
vs.
JNO. McDONOGH. } Order.—March 21st, 1839.

On motion of J. T. Preston, esq., of counsel for A. F. Rightor, and on filing the answer of said Rightor called in warranty, the court order that the judgment by default herein taken on the 13th instant be set aside.

Answer of A. F. Rightor, called in warranty, filed March 21st, 1839.

To the honorable District Court of the First District of the State of Louisiana.

The answer of Abraham F. Rightor to the petition of Laurent Millaudon and others, in their suit in this court against John McDonogh, and in which suit he is called in warranty by the plaintiffs, respectfully shows:

That your respondent denies all the allegations in plaintiffs' petition contained material to charge him with their demand, and further denies that they are entitled to the remedies for which they pray.

He further alleges that the plaintiffs had, when they purchased from him the land in their petition mentioned, a perfect knowledge of the pretended claim of John McDonogh, and have no right to call your respondent in warranty on account of said claim.

Your respondent further alleges that he was the true and only owner of the property sold by him to the plaintiffs, and that said John McDonogh has no right or title to any part thereof, and never had possession thereof, and he denies all the allegations in the answer of the said McDonogh. He further alleges that said McDonogh is bound to sue the plaintiffs to establish his pretended claim, or abandon the same.

He therefore prays that said McDonogh may be compelled to sue or to set forth specially his titles in this suit, and that your respondent may have time and be allowed to answer to his pretended claim when so set forth.

Your respondent prays a trial by jury, and that judgment may be rendered in his favor against the demands of the plaintiffs; and, further, that there be judgment against said McDonogh, as prayed for by the plaintiffs, and for costs.

And he prays for all other and further relief which justice, equity, and the nature of his case may require. And as in duty bound, &c.

(Signed) J. T. PRESTON,
Att'y for def't called in warranty.

LT. MILLAUDON & al.,
vs.
JOHN MCDONOGH.
} Order.—April 3d, 1839.

On motion of J. T. Preston, esq., of counsel for Rightor, called in warranty; the court order that a commission issue in this case, to any associate judge of the city court of New Orleans, to take testimony of witnesses.

L. MILLAUDON & al.,
vs.
JOHN MCDONOGH.
} Testimony taken in open court, April 17.

Plaintiffs offered in evidence the act of sale and plat annexed to their petition.

Plaintiffs offered in evidence an act filed herein, on the 16th of March, 1839, marked No. 7; also another act from M. Conway to W. Conway, filed herein, on the 6th March, 1839, and marked No. 6; also a confirmation by the board of commissioners of the land office, filed on the 16th March, 1839, marked No. 5; also a certified copy of the plan of survey, filed 16th March, 1837, marked No. 1;

also copy of the last will and testament of W. Conway, filed on the 16th of March, 1839, marked No. 4; also certified copy of deed of conveyance from Mrs. Conway to Mr. Laville, filed 16th March, 1839, and agreement and confirmation, marked No. 8; also a copy of sale from John Conway to A. F. Rightor, filed 16th March, 1839, marked No. 2; also a deed of mortgage from Wm. Conway to Joyce, filed 16th March, 1839, marked No. 3.

Plaintiffs offered the document No. 9, now filed, entitled sale of Indian chief Catafaine to M. Conway and A. Latil.

Plaintiffs offered in evidence the sale from Latil to McNamara, in 1774, now filed, and marked No. 10; also a petition of M. Conway to Governor Galvez, now filed, and marked No. 11; also a sale from Latille to Magnamora, 1775, now filed, and marked 12; also a sale from M. Conway to C. Pollock, in 1794, now filed, and marked No. 13.

Also some extracts from the mortuary proceedings of St. Maxent, now filed, and marked No. 14; also copy of a deed passed before Ximenes, in 1798, now filed, and marked No. 15; also copy of sale and conveyance from the parish judge to Louis Faure, in 1798, now filed, and marked No. 16.

Plaintiffs offered in evidence the commission of the Governor, who authorized the sale, and the commission of Galvez, who ratified the sale by the Indians.

Plaintiffs offered in evidence the petition of Wm. Conway to the land office in 1806, now filed, and marked No. 17.

L. MILLAUDON & al.,
vs.
JOHN MCDONOGH.
} Order, April 17, 1839.

This cause came on to day for trial before a jury.

J. Slidell, for plaintiffs; Grymes and Strawbridge, for defendant; Preston and White, for Rightor.

When, by consent of counsel, the trial by jury was waived for the present, and the cause put before the court on the question of title between the plaintiffs and the defendant, John McDonogh; and the question between said McDonogh and the plaintiffs, whether plaintiffs are entitled to the rescision of the sale from him to said plaintiffs, leaving open for trial before a jury, plaintiffs' claim for damages, as well against said McDonogh as against A. F. Rightor, in case the said sale is rescinded; this reservation on the question of damages being understood as not applying to the purchase money or notes given; whereupon, the trial of the cause proceeded, and, after hearing testimony, the court order that the same be continued till to-morrow morning at 10 o'clock.

Testimony filed, 18th April, 1839.

Warrantor F. Rightor offered in evidence a petition of Maurice Conway to Governor Galvez, for the back lands of the Houmas,

order of survey, proces verbal of the survey by Don Louis Andres, grant by Governor Galvez in the year 1777, now filed, and marked No. 18.

Defendant McDonogh offered in evidence the patent for thirty acres front to the river, in favor of Delile, now filed, and marked No. 19; together with defendant's affidavit, now filed, and marked No. 20.

Defendant McDonogh offered in evidence the plat No. 21, now filed, with the decision of the commissioners, now filed, and marked No. 22.

Defendant McDonogh offered in evidence a copy of a plan and proces verbal, now filed, and marked No. 23; the declaration at the heading of the same are rejected by the court.

B. Marigny, witness for defendant McDonogh, sworn, says: he knew François Delile Dupart, he was witness' uncle. He died in the year 1814 or 1815, and was eighty-one or eighty-two years of age when he died; that Delile Dupart, the grantee of the land in question, had five children, one of whom, is one just alluded to by him as being dead.

Defendant McDonogh offered in evidence a sale from Mr. Arnourt and wife, to Bourgeois and Guillard, now filed, and marked No. 24.

Defendant McDonogh offered in evidence a sale from Le Bourgeois to Shepherd Brown and John McDonogh, now filed, and marked No. 26.

Defendant McDonogh offered in evidence a conveyance, by Le Bourgeois to McDonogh and Brown, of the whole of the property in the rear, now filed, and marked No. 27.

Defendant McDonogh offered in evidence a conveyance, by the executors of Shepherd Brown, of the rear of the property to John McDonogh, now filed, marked No. 28.

Defendant McDonogh offered in evidence an extract from the inventory of the estate of Delille Dupart, now filed, and marked No. 29.

Defendant McDonogh offered in evidence an act of sale from Wm. Watkins, sheriff of the second superior court, to John McDonogh, now filed, and marked No. 30.

Defendant McDonogh offered in evidence an act of sale from Louis Honoré Guerlain, as agent of the Eastern Shore of Maryland Louisiana Company, to John McDonogh, &c., &c., now filed, and marked No. 31.

Defendant McDonogh offered in evidence an act of sale from Pierre Lanoix to the Eastern Shore of Maryland Louisiana Company, now filed, and marked No. 32.

Defendant McDonogh offered in evidence a plat and proces verbal of survey, made by Bartholomew Lafon, now filed, and marked No. 33.

Defendant McDonogh offered in evidence an act of sale from Antoine Tregue to John McDonogh, now filed, and marked No. 34.

Defendant McDonogh offered in evidence an act of sale from Pierre Materne to Antoine Tregue, now filed, and marked No. 35.

Defendant McDonogh offered in evidence an act of exchange of property between John Benny and Antoine Tregue, now filed, and marked No. 36.

Defendant McDonogh offered in evidence the plot of survey, No. 37, now filed.

Bill of exceptions of A. F. Rightor, called in warranty.

On the trial of this cause, plaintiffs having closed their testimony, the defendant, John McDonogh, offered evidence to show title, in himself, to a part of the land mentioned in plaintiffs' petition. A. F. Rightor, called in warranty, by counsel, opposed the introduction of the same, on the ground that he has not set up a title specially in his answer; and that, on the answer filed by him, the only judgment that can be rendered is, that he bring suit to establish his title, or that the plaintiff has no title. The court, after argument, overruled the objection, and permitted him to offer evidence of title in himself; to which opinion of the court, the said Rightor, by counsel, excepted.

(Signed) A. M. BUCHANAN, *Judge.*

Rightor's bill of exceptions, filed April 18th, 1839.

On the trial of this cause, the defendant, John McDonogh, offered in evidence the document No. 31. A. F. Rightor, by counsel, objected to the same, on the ground that the power of attorney, by virtue of which the same is made, is not produced. The court overruled the objection, and admitted the testimony to which said Rightor, by counsel, excepted.

(Signed) A. M. BUCHANAN, *Judge.*

Defendant McDonogh's bill of exceptions, filed April 18th, 1839.

Be it remembered, that, on the trial of this case, the statements of Delile Dupart and Carlos Trudeau, as contained in the document hereunto annexed, and made part of this bill of exceptions, were offered in evidence, when defendant Rightor objected, on the grounds—first, that said declaration was not made under oath; second, that it was hearsay; and third, that the judge certifying had no authority to do so, it being a declaration sous seing privé; fourth, that they are copies, and the originals not produced.

The court rejected them, and the defendant McDonogh tendered this his bill of exceptions.

(Signed) A. M. BUCHANAN, *Judge.*

April 18th, 1849.

Documents annexed.

Je soussigné déclare et certifié que les dix arpens ou environ de face, maintenant la proprieté de la compagnie, connue sous le nom

de Eastern Shore of *Maryland Louisiana Company*, achetées par L. H. Guerlain de Pierre Lanoix, situées au Comté d'Accadie, quartier de la longue vue de La Ramée entre l'habitation de J. McDonogh, et J. Broux, et Antoine Trègue, font partie d'une terre plus considérable achetée des sauvages appelée Collapepas, dans l'année 1739, par feu mon père de Lille Dupard, et que l'achat de la dite terre portait positivement la condition que les lignes et bornes couraient depuis le bord du fleuve Mississippi, jusqu'au lac Maurepas; qu'à l'epoque ou feu mon père a acheté cette terre des sauvages, il n'était pas d'usage de passer des contrats de vente avec les sauvages, et qu'il suffisait d'effectuer envers eux le paiement convenu; soit en présence du commissaire ou de l'interprête des nations Indiennes. Qu'il est d'ailleurs à ma connaissance qu'il a été fait un arpentage général de toute la partie de terre que possédait feu mon père au quartier de La Ramée dite vacherie, lequel portait la profondeur depuis le fleuve jusqu'au lac Maurepas, sans interruption quelconque, mais qu'il est probable que ce plan d'arpentage a été égaré ou détruit lors des incendies.

En foi de quoi j'ai donné et signé le présent, pour servir et valoir que de droit.

Cannes Brûlées, ce 3 Janvier, 1808.

(Signé) FRANCOIS DE LILLE DUPART.

G. Raoul, témoin de la signature de Mr. Dupart.
Gervais Arnoult, témoin de la signature de Mr. Dupart.

Note relative aux terres provenant de la vacherie Dupard à la longue vue de l'Arrannée.

Par un extrait de l'inventaire de feu Delille Dupart père, en date du 25 Novembre, 1776, fait et rédigé par devant les autorités d'alors et en présence de témoins et des héritiers qui ont signé, il appert que la plantation d'environ 36 arpens de face, située à la vacherie Dupard à la longue vue, avait la profondeur jusqu'au lac; c'est ainsi qu'il est expliqué.

Compuesta de trèinta y seis arpanes de frente y el fundo hastà el lago.

Delivré la présente copie conforme au régister, qui a servé à l'enregistrement des titres de chaque concessionnaire.

Paroisse St. Jacques, le 5 Septembre, 1811.

(Signé) MICHEL CANTRELLE,
Juge Registère.

Copie.

Nous soussignés ci-devant arpenteur royal et particulier pour S. M. C. certifions et déclarons à la réquisition de L. H. Guerlain, acquéreur d'une partie de terre provenant de la succession de feu Mr. Delille Dupard, située au comté d'Accadie qu'au mois d'Aout de l'année 1790, ayant passé au quartier des accadiens dit l'endroit

appelé la Vacherie de la Ramée pour en vertu d'un decret du gouverneur général Don Estevan Miro, y faire la répartition des terres provenant de la succession de feu Mr. Delille Dupart, les quelles terres restantes en héritage à cinq de ses descendans qu'étant au moment d'entrer dans mon arpentage, je reconnus d'abord que ces terres furent vendues comme suit: une portion en faveur de Henry, deux portions en faveur de Pierre Bourgeoise, une portion en faveur du mulâtre libre Alexandre Lange, la cinquieme et dernier portion seule ayant été conservée pour l'héritier François Delille Dupard. Cette dernier portion est la plus vers le haut du fleuve et tenait au nommé Nicholas Materne. Après avoir fait le susdit partage, les acquéreurs réclameront la profondeur jusqu'au lac Maurepas, comme avait porté la vente de la nation Colapepas en faveur de feu Delille Dupard, je leur confirmai que j'avais connaissance parfaite que cette terre portait toute la profondeur, jusques au lac Maurepas pour l'avoir oui dire à feu mon père capitaine d'infanterie et commissaire des nations Indiennes pour S. M. T. C. qui avait même d'interprêt pour le gouvernement lors de cette vente, ainsi qu'il était d'usage alors, parce que dans ce tems là, il ne se passait point de contrat de vente entre les sauvages et les particuliers et que le payement de cette terre avait été fait en sa présence; declarant en outre moi ci-devant arpenteur royal d'avoir vu et examiné un plan général d'arpentage de la dite terre telle que, feu Lille Dupart l'avait achetée des sauvages, qui portait la profondeur jusques au lac Maurepas, sans aucune interruption; certifiant qu'il est de plus à ma connaissance, qu'à l'époque ou Delille Dupard acheta cette terre des sauvages, il n'était pas d'usage de faire l'enregistrement de ces ventes, et que pour avoir titre de propriété et de jouissance, il suffisait que le payement s'en fit en présence du commissaire ou interprête du gouvernement. En foi de quoi j'ai déclaré la présente pour servir et valoir que de droit. Le 29 de Juin, 1808.

(Signé) CHARLES TRUDEAU.

Rightor's bill of exceptions, filed 18th April, 1839.

On the trial of this cause, the defendant, John McDonogh, offered in evidence the documents Nos. 21 and 23, purporting to be a survey of the land claimed by him, by Pothier, in 1812, and confirmation of his title by the register and receiver of the land office; to the introduction of which, A. F. Rightor, called in warranty, objected on the ground that said acts had been done in violation of acts of Congress in force at the time. To the survey he further objected, on the ground that it was not proved that Pothier was a deputy surveyor of the United States; and, further, that the survey was not conformable to the grant and confirmation under which the said McDonogh claims. The court, after argument, overruled the objections and admitted the documents in evidence; to which opinion and decision of the court, the said Rightor, by counsel, objected. (Signed) A. M. BUCHANAN, *Judge*.

April 18th, 1839.

Defendant having offered document 33, Rightor objected to the same on the same grounds; and, by consent, this bill of exceptions is also taken to it:

Rightor's bill of exceptions, 18th April, 1839.

On the trial of this cause, the defendant, John McDonogh, offered in evidence the document marked No. 19, purporting to be a French grant to Pierre Joseph Delille Dupard père, dated the 3d of April, 1769. Rightor, by his counsel, opposed the introduction of said paper or document, on the ground that it purported to be a copy of a copy; that the original is not accounted for, and that, if lost, the copy should be produced, and not the copy of the copy; they further objected to the introduction of said document in evidence, on the ground that Louisiana, at the date of said document, was not under the government and jurisdiction of France, but of Spain; and France has no authority to make such a grant; which, therefore, was null and void. The court, after argument, overruled the objections and admitted the document in evidence, to which decision of the court the said Rightor, by counsel, excepted, and prayed the court to sign his bill of exceptions, that the same may appear of record.

(Signed) A. M. BUCHANAN, *Judge*.

New Orleans, April 18th, 1839.

Affidavit of defendant, filed April 18th, 1839.

John McDonogh deposes that he has had for many years, after he became proprietor of the property in question, used every possible diligence to find the original patent under which it has been held; for which purpose, he made inquiries of the different members of the family of Delille Dupard, who could give him no information as to what had become of it; and that, after long additional search in various offices, he became satisfied it was lost; that he having applied to the land office for a confirmation of his title, and it having been refused beyond 40 arpens, he redoubled his efforts, but without success, until some one of the clerks of the land office informed him of the existence.

(Signed) JNO. McDONOGH.

Sworn to and subscribed, this 18th April, 1839, in open court.

(Signed) JNO. L. LEWIS, *Clerk*.

L. Millaudon & al. vs. John McDonogh. } Order.—April 18th, 1839.

This cause, continued from yesterday, came on again to-day for trial before the court, when, after hearing testimony, the court order that the same be continued till to-morrow, at 12 o'clock, M.

Defendant McDonogh offered in evidence an act of sale from Soniat Dufossat to John McDonogh, now filed, and marked No. 39.

Defendant McDonogh offered in evidence a transfer made by Mrs. McNamard to J. S. Dufossat, now filed, and marked No. 40.

Defendant McDonogh offered in evidence the title deed of Mad'e McNamard to H. Fontenot, now filed, and marked No. 41; also a plan and survey, now filed, and marked No. 42.

Defendant McDonogh offered in evidence the three plans, Nos. 43, 44, and 45; also the certificate of the register of the land office, now filed, and marked No. 46.

Nicholas Vicknaire, witness for defendant McDonogh, sworn, says: He is fifty-nine years of age; he is a Creole, of the Amite river. He has always resided there until within about the last twelve years. He lived on the right hand side of the river, about two leagues below Galveston; he had knowledge of the lands on the left bank of the river; there were clearings on the left bank at McDonogh's and Brown's places, on an island. The island is called "L'isle de Petite Mites;" there were negro cabins on the land where the negroes of McDonogh and Brown lived; the clearings were in several places along the river and fronting on it; there were clearings near Galveston, about two leagues from it; on the other side, near the lake, there was another clearing, where McDonogh's saw-mill was; witness, at that time, knew both McDonogh and Brown; he knew their plantation, at that time, on the Mississippi. Witness has crossed the swamp from Amite river to Brown and McDonogh's plantation on the river where the line was drawn; witness was pilot to draw the upper line of the plantation. He piloted a surveyor named Potier; he remembers that the surveyor placed boundary lines at the time; in drawing the upper line, he has no recollection of having seen any ancient boundary lines; he recollects that Potier placed [a] boundary post on the edge of the Amite river, at its mouth; this boundary post remained there a long while; even now, he thinks the stump of it might be found. While he lived in those parts, he has passed from the Amite frequently, by the bayou Accadien, to the Mississippi river. He recollects that, in passing through this bayou, he saw clearings along its borders, and palmetto cabins, which McDonogh and Brown had made by their negroes. He has seen the negroes cutting wood for the mill on the Amite river, as well on the border of the Amite river as on that of the bayou Accadien; he thinks that it may be about thirty-nine years since the survey took place which he alludes to; and it was at that time that he saw the negroes cutting wood on the bayou Accadien and Amite river.

Cross examined by Rightor.

He saw the negroes of McDonogh on the île de Petite Mites about thirty-nine years ago; he lived higher up the river than the French establishment. This island which he speaks of was not in the parish of St. Helena; it is in the parish on the side towards the

Mississippi; the saw-mill which he speaks of is in the parish of St. Helena. The inhabitants of Amite river pass through bayou Accadien in small canoes; schooners go in the bayou to get wood, about five leagues up the bayou, and no further. The Amite, at its mouth, is about an arpent and a half in width; the width of the mouth of the bayou Accadien, at lake Maurepas, is about four arpens; it continues the same width for two leagues up, and then narrows; it is about eight or nine feet deep. He commenced the survey with Potier at Mrs. Bourgeois' on the river; they were five days engaged in the survey; he was employed by Potier; he thinks that, in the five days' survey, they went over about eight leagues of land; the line which they ran, on the upper part, was in a west northwesterly direction; they passed through the swamp on foot. He did not make a survey of any other line. Witness lived on the Amite, on the side towards St. Helena; there were no other establishments at that time below Galveston but those of McDonogh and Brown; there were some about the French coast; there was an inhabitant below Galveston named Robert Vicknaire; the plantation of Thomas was about five leagues below Galveston; there were many establishments, in the Spanish times, below Galveston; the Spanish settlements below Galveston were on the same side of the Amite as Galveston is.

Re-examined by McDonogh.

He means by the left side of the Amite, the left on descending the river. The clearings and cabins which he alluded to, were on both sides of the Amite. The island which he spoke of, was on the right hand of the river, and on the Spanish side.

Augustin Malet, witness for defendant McDonogh, sworn, says: He is eighty-three years of age—he was born in this city. He has lived on the Amite. He went to live there twenty years ago, and left eight years ago. He knew, at that time, the establishments of McDonogh and Brown on the Amite; he sometimes stopped at the places. That he sometimes went in a carriage to Bourgeois', and took a schooner and came to town. Bourgeois' place was higher up the river than McDonogh's. That going from the mouth of the Amite to Galveston, these clearings and cabins were on the left, on the Spanish side. These clearings and cabins were in different places on the river. He has passed from Mrs. Bourgeois' to the bayou Accadien, about forty arpens, and come to town; and on that bayou, he saw Brown and McDonogh's negroes cutting wood, and had built cabins. There were cabins on both sides of the Amite, at the little island. St. Helena is opposite the place where these clearings on the bayou are.

Cross examined by Rightor.

When he went to the Amite thirty years ago, the cabins and clearings existed on the left side; they had just commenced the

works at that time; as the negroes cut down wood in one part, they moved on further and built other cabins. He knows that the cabins belonged to McDonogh. That when he went to the Amite to live, he saw clearings and cabins on the bayou Accadien. He never saw a schooner go into the bayou, but has been assured that a schooner conveying forty cords of wood can go into the bayou at this time. The mouth of the bayou is about the same width as that of the Amite river.

P. A. St. Martin, witness for Rightor, sworn, says: That he is register of public lands. That the book now brought by him in court, is the register which purports to be that of French grants. That he knows nothing of grants made but from the books. That it appears from said book, that the last grant was made by the French Government, through Gov. Dabbadie, was on the 11th February, 1764; and the first, by Charles Philipp Aubry, is dated 8th February, 1765. That the concessions made by Aubry are carried in the book down to page 215.

It is agreed that the original of this book shall be taken to the Supreme Court in case of appeal.

Witness says, that the concession at page 212, appears to have been made on the 8th January, 1769. That the concession on page 215, appears to be on the 14th February, 1769. That the concession on page 212, to François Delile Dupard, and on page 213, to Pierre Joseph Delile Dupard, the first of the 1st April, 1769, and the other the 3d April, 1769. That of the grants made by Aubry, there are none on said book, but one which is attached by wafer, and that is at page 212.

Defendant's bill of exceptions, filed 20th April, 1839.

Be it remembered, that at the trial of this cause, the defendant McDonogh offered in evidence the two documents hereto annexed, and made part of this bill of exceptions, being original certificates of C. Trudeau and Delille Dupard, the signatures to which were proved by L. Bringier and B. Marigny, which were opposed on the grounds:

1st. That they were not sworn to.

2d. That they were res inter alios acta, and not to be used against the defendant Rightor.

3d. That they came from no public office or depositary.

(Signed) A. M. BUCHANAN, *Judge*.

Documents.

Nous soussigné ci-devant arpenteur royal et particulier pour Sa Majesté Catholique, certifions et déclarons qu'au mois d'Août de l'année mil sept cent quatrevingt dix, ayant passé au quartier des Accadiens, des endroits appelés la Vacherie de l'accovée, pour en vertu d'un decret du gouverneur général Don Estevan Mixo y faire

la repartition des terres provenantes de la succession de feu Mr. Delile Dupard, lesquelles terres restantes en héritages à cinq de ses descendants, qu'étant au moment d'entrer dans un arpentage, reconnus d'abord que les terres furent vendues comme suit : une portion en faveur de Mr. Henry Fonteneau, deux portions en faveur de Mr. Pierre Le Bourgeois, et une portion en faveur d'un mulâtre libre nommé Alexandre Lange, la cinquième et dixième portion seule ayant été conservée par l'Héritier François Delille Dupard. Cette dixième portion est la plus vers le haut du fleuve et tenait au nommé Nicholas Mathenne ; après avoir fait le sus dit partage, les acquéreurs réclamèrent la profondeur jusques au lac, comme avait porté la vente de la nation Houmas, en faveur de feu Mr. Delille Dupard, je leur confirmois que j'avais connaissance par faite que cette terre portoit toute la profondeur jusques au lac, pour l'avoir oui dire de feu mon père vivant capitaine d'infanterie et commissaire des nations Indiennes pour S. M. T. Ch., qui avait même servi d'interprête pour le gouvernement lors de la vente, comme aussi que le paiement avait été fait en sa présence et pour que le présent puisse servir, nous l'avons donné.

(Signé) CHARLES TRUDEAU.

Le 29 O'bre., 1836.

Je soussigné déclare et certifie que les dix neuf arpens ou environ de face, maintenant la propriété de J. McDonogh et Ch. Brown, achetés par eux de P're Bourgeois, situés au quartier de la Ramée dite la vacherie comté d'Accadie, tenant par en bas, à Ambroise Aydel et par en haut à l'habitation de la compagnie de "Eastern Shore of Maryland Louisiana Company," font partie d'une terre plus considérable, achetée des sauvages appelés Collappipas dans l'année 1739, par feu mon père Achille Dupard, et que l'achat de la dite terre portait positivement la condition que les lignes couraient depuis le bord du fleuve Mississippi, jusques au lac Maurepas. Qu'à l'époque où feu mon père a acheté cette terre des sauvages, il n'était pas d'usage de passer des actes de vente avec les sauvages, et qu'il suffisait d'effectuer envers eux le paiement convenu ; soit en présence du commissaire ou de l'interprête des nations Indiennes.

Qu'il est d'ailleurs à ma connaissance qu'il a été fait un arpentage général de toute la partie de terre que possédait feu mon père au quartier de la Ramée dite vacherie, lequel portait la profondeur depuis le fleuve jusques au lac Maurepas, sans aucune interruption, mais qu'il est probable que ce plan d'arpentage a été égaré ou détruit par les incendies.

En foi de quoi j'ai donné et signé le présent, en présence de témoin pour servir et valoir que de droit.

Cannes Brûlées, 3 Juin, 1808.

(Signé) FRANCOIS DELILE DUPARD.

G. Reoul, témoin de la signature de Mr. Dupard.

Gervais Arnould, témoin de la signature de Mr. Dupard.

Rightor's bill of exceptions, filed 20th April, 1839.

Be it remembered, that, on the trial of this case, John McDonogh, the defendant in this suit, offered to introduce in evidence two papers, purporting to be copies from the register's office at New Orleans, of two maps in his office representing township 10, R. 5 E., and township 10, R. 6 E.; to the introduction of which Register [Rightor] by his counsel, objected on the following grounds:

1st. Because the said papers are not, nor do they purport to be, copies of the original maps of survey.

2d. Because there is no evidence, on the papers offered, that the surveys which they represent were ever approved by the competent officer whose duty it was to approve said surveys, at the time they purport to have been made, to wit, the surveyor of public lands south of Tennessee.

3d. Because, at the time the register certifies the receipt of the maps, of which the papers offered purport to be copies in his office, to wit, the 12th September, 1838, Rightor was not, nor had been for several years, principal deputy surveyor; and there is no evidence on the papers offered, to show that the maps from which they were copied by the register were certified as copies from the original maps by the surveyor general of public lands in the State of Louisiana, the only officer authorized by law to grant such copies.

4th. Because the paper, certified by the register to be a copy of the map in his office, is not a copy, because he certifies that it contains more than the original, to wit, that he colored it.

And the court having overruled the objections, and admitted the papers offered in evidence, Rightor, by his counsel, excepted to the opinion of the court, and tendered his bill of exceptions, which is signed accordingly.

(Signed) A. M. BUCHANAN, *Judge*.

L. MILLAUDON & al.
vs.
JNO. McDONOGH.
} Order.—April 19th, 1839.

This cause, continued from yesterday, came on again to-day for trial, when, after hearing testimony, the court order that the same be continued till Tuesday, the 30th instant, at 10 o'clock, A. M.

L. MILLAUDON & al.
vs.
JNO. McDONOGH.
} Order.—April 19th, 1839.

On motion of I. T. Preston, esq., of counsel for A. F. Rightor, the court order that a commission issue in this case, to any judge or justice of the peace in the parish of Ascension, to take the testimony of witnesses.

Testimony—filed April 30th, 1839.

Auguste Malet, witness for defendant McDonogh, re-examined: That in the clearings on the Amite river, which he alluded to on a former examination, crops of corn, pumpkins, and cotton were raised.

Cross examined by Rightor.

He is unable to say how large the clearings were, but they were pretty large. Where he saw the crops spoken of, the ground was fenced in. Witness lived in that neighborhood. There were negroes working on the places—about a dozen negroes. The plantation was not on the lake; it was on the left bank of the Amite ascending. This place was half-way between Galveston and the lake. This clearing was on a small island. This was thirty years ago. There is eight years since he left that neighborhood, and afterwards they moved to High Creek, at a plantation which they had there. That down to the time witness left there, he thinks there were one, or two, or three negroes on the place.

Re-examined by McDonogh.

They were slaves belonging to Brown and McDonogh.

Louis Bouligny, witness for defendant McDonogh, sworn, says: He is fifty years of age. He recollects of passing on the Amite river with his brother, for the purpose of going to Baton Rouge, in the spring of 1806 or 1807, to get negroes; and on their way up the Amite they stopped at Brown and McDonogh's plantation two days, and there were furnished with horses to go to Baton Rouge. That on the left bank ascending, Brown had established himself in a block house, and had several arpens of land cleared and planted with cotton. There were negroes working on the place. There were some small establishments on the left bank ascending, between Brown and McDonogh's plantation and Galveston. Does not know to whom these small establishments belonged.

Cross examined by Rightor.

Brown lived in the block house or log cabin. Is unable to say what distance Brown's establishment was from the lake. This has been thirty-two or thirty-three years since; the front of the clearing on the left bank ascending was twelve or fifteen arpens, but not deep. This clearing was opposite to Brown and McDonogh's mill, on the right bank ascending. The clearing in front was enclosed with rails and fence, but cannot say whether the sides and back were enclosed. Witness has never been there since 1806 or 1807.

Nicholas Vicknaire, witness for defendant McDonogh, re-examined: That on the clearings alluded to by him on a former exam-

ination, there were crops of cotton, corn, pumpkins, and all kind of vegetable culture raised. There were also negroes constantly at work on the place.

Cross examined by Rightor.

The establishment which he alludes to was above the mill, on the left bank ascending, five leagues from the lake.

Veuve Benjamin Delle, witness for defendant McDonogh, sworn, says: She has resided a long time on the bank of the river Amite. She recollects on one occasion going up the Amite river. She saw a clearing on the left bank ascending, about six leagues from the lake; it appeared to be a plantation.

Henry Hudson, witness for defendant McDonogh, sworn, says: He is a book-binder; has examined the back of French grants kept in the office of the register of lands, and now in this court has examined it at page 213: having examined those leaves, is positive that that leaf could not have been inserted in the book without the whole book was unbound and rebound. His reason for that opinion is, that the guard to which the leaf has been inserted could not have been passed beneath the twine which binds the whole book together, without taking the whole book to pieces. He should judge, from the lettering on the back of the book, that it must have been rebound*ed* about twenty or twenty-five years since: the binding of the book appears to be ancient, and the ornaments thereon do not correspond with the lettering on the back. The style of the binding seems to be that of the French, on the blank books.

Octave de Armas, witness for Rightor, sworn, says: That he is a notary. That the records of Almonaster Y. Roxas are in witness's office. He knows that some of these records bear the title of "Real Asiento." Does not know if those were kept by Almonaster, as there were several notaries kept the same records; but knows that they were kept among the records of Almonaster, which records are now kept by witness.

Cross examined by McDonogh.

He merely means to say that he has in his office some records bearing the title of "Real Asiento," but does not mean to say that Almonaster kept them all, or that witness has them all.

Party for Rightor offered in evidence a petition of L. Bourgeois and Gillaud for a second commission, which was granted in 1787, now filed and marked No. [1]; also a plan of C. Trudeau, in 1787, of the middle portion of the land now claimed by McDonogh, now filed and marked No. [2]; also the petition of L. H. Guerlain to the commissioners of the land office, now filed and marked No. [3];

also certified copy of the confirmation to McDonogh and Brown, being the middle portion of the land said to be granted to Delile Dupard, now filed and marked [4].

H. B. Cenas, witness for McDonogh, sworn, says: He was register of the land office in this city, from 1829 until the early part of 1834. Recollects perfectly well of the book of French grants, now in court, being in his possession while register. Recollects very well of having seen the leaf at page 213, and it appears to be in the same situation now as then. Several leaves in the same book, seem to be in the same situation, having the appearance to him as having been mended. Witness is a notary public, and has had some experience in those old writings, especially while in the land office. Has seen many of them in the old offices of this city. It has always appeared to him, from comparison with the leaf, paper, handwriting, and ink, that the writing on page 213, has been done by the same person, and in the same handwriting, as that on the adjoining pages. He found this book, when he took possession of the office, in the same condition as it now is; as also a number of other concessions, as they had been bound up by his predecessor, Mr. Isaac T. Preston. His impression always has been, that this leaf has been mended in binding, as it sometimes happens with binding witnesses records; they are bound up in separate classes, and it is necessary so to do in order to sew it up.

Cross examined by Rightor.

The date of the concession, at page 212, appears to be on the 28th day of January, 1769; and those on page 213, 1st and 3d of April, 1769; and on the 215th, the 14th April, 1769. Some of the Spanish books in the land office, he thinks, contains the dates when the last concession ceased; that it appears on page 215, a part of the page is cut off, and the signature at the end seems to have been erased. Witness has never examined to see whether there was any other concession out of its regular order but this one. The concession of January commences on the same page as that of April. That with the exception of the figure 5, at page 105, there is no other figure 5 corresponding with the formation of that figure at page 215, in that book; the tail of that figure, at page 215, resembles a good deal the tail of the figure 3, on some of the pages.

Andrew M. Collin, witness for Rightor, sworn, says: He is not at all interested in this suit. Is connected with Rightor in land in the upper part of this State, and is a cousin of his. Says that he is a surveyor by profession, and under the employment of the United States. Is employed principally in the surveyor general's office at Donaldsonville, and executes surveys for that office. Has made examination in that office, to see the field notes and survey of the land of McDonogh, now in controversy in this suit. He has found the field notes and surveys of that claim, extending in depth to Bayou

Accadien, Blind river, a grand bayou, but has been unable to find any field notes or surveys extending beyond that depth; a survey extending to that water course would not interfere with the land sold by Rightor to Millaudon and others, unless it crossed that stream. Witness has crossed the bayou; has ascended from the mouth about twenty miles. As far as he ascended the bayou, he found it a large stream, some places 20 or 30 feet in depth, and in some places did not find the bottom, his line not being long enough; and as far up as he went, the width was between 2 and 300 feet; it might not have been 200 feet wide at the place where he turned back, 20 miles up the bayou, but generally it might be from 2 to 300 feet in width. As far as he ascended it, he considered it navigable, and thinks it would admit steamboats. He saw several large schooners in it. He ascended it about two or three miles above a bayou called Courcy, and, in his opinion, about two or three miles above where McDonogh's line crosses. Near the lake, for ten or twelve miles up, it is wider than the Amite river. He saw some wood choppers' camps made of palmetto; there were many persons at the time cutting wood, and schooners loading with it. There was a small garden on an island about five miles up, cultivated by a man named Scneider, he thinks; and the camp occupied by Ory, is several miles higher up. There is more of a bay at the mouth of this stream than at the Amite, but cannot say that it was more of the head of the lake than the Amite, as they are both of about the same size at the mouths. The distance from the upper line of McDonogh to the Mississippi may be some six or seven miles, from the lower line some ten or twelve miles.

Being shown plan 21, says: That the plat purports that the line being north 11° 35′, but bears more northing than the line bearing north 19° 30′ west, which is an impossibility. That from his knowledge of the surveys in that part, the distance from the Amite to the Mississippi river, cannot fall far short of 25 miles on McDonogh's upper line, it is certainly over 22 miles; and on the lower line, he considers that the distance cannot exceed fifteen miles. That from the point where McDonogh's upper line purports to strike the Amite river, to the Lake Maurepas, the distance is over forty miles. That plat No. 21, does not represent the position of Bayou Accadien as he found from actual traverse, and should think that it was placed there by guess; that said plat does not give a representation of the Amite as it enters the lake. He should not think that such a survey of the said river would have been given by a surveyor who actually traversed. That the plan filed herein, on the 10th December, 1838, he recognises as exhibiting a correct representation of the lake, and the manner in which the Amite enters it. He recognises said plan, as a correct copy from one made by him, and knows the fact of its showing a correct representation of the country, from his having surveyed a great portion of the land.

Being shown plan 45, says: That from the lower line of Fontanot to the upper line of Duplantier, he should think that there are

from twelve to thirteen arpens front on the river Mississippi. That the number of front arpens in section 43, on said plan marked John McDonogh, is over forty. That the whole of the front of the three claims of McDonogh, Fontanot, and Duplantier, as represented on the map, would be about fifty-three arpens. The character of the land for several miles near the lake, between the Amite and bayou Accadien, in ascending the river, the land is marshy and subject to overflow. That the average course of the Blind river, as far as he has ascended, would perhaps bear north by 40 east. The lines claimed by McDonogh could not extend to the Amite without crossing Blind river. He should not be inclined to think, from his knowledge of surveying, that the plan 21 was made from field notes and actual survey.

There would be no difficulty in running parallel lines, so as to have thirty arpens front on the Mississippi, and the same front on lake Maurepas.

Cross examined by McDonogh.

Does not recollect what date the field notes which he found (in relation to McDonogh's upper line, as far as bayou Accadien) bore; they had the appearance as if they might have been made within eight or ten years. Does not recollect whether they were made by Falter or Evans, but thinks they were by one of the two. In his way up the Blind river, he passed the mouth of Chêne Blanc, or White Oak bayou: this is a considerable stream, and should suppose, at its mouth, that it is nearly or quite an hundred feet wide. He also ascended the bayou, until he was stopped by logs across it. The stream called Petite Amite is a stream which puts out of Amite at the island, and empties into the Blind river. He thinks at the Blind river it is one hundred feet wide and over—perhaps 150 feet wide; and at the Amite 50 or 60 feet wide, and about six or seven feet deep through and through, if cleared of logs. There is another stream called Bayou Pampan, which is from 100 to 150 [feet] wide at the mouth; did not ascend it, nor does he know the depth. He has been frequently on the upper part of New river, for about ten or fifteen miles from the mouth. He found it a small stream, in some places 50 feet wide, and in others probably 100 feet wide. It is not very deep; he recollects in crossing it he dropped his knife, and reached down with his hand and got it up. He has seen some places where it is five or six feet deep. He thinks that the width of New river, at its mouth, is some fifty, sixty, or one hundred feet wide. Did not ascend it, or sound the mouth. In making the distance from McDonogh's upper line, where it strikes the Amite at the lake, as forty arpens, does not mean in a direct line out, following the meanderings of the river.

Witness is about twenty-eight years of age.

Re-examined by Rightor.

All the streams which he has alluded to are inconsiderable, in comparison with Blind river.

His instructions from the Department are, that in locating lands where a stream is navigable, to regard it; and where it is not, to regard them. Little Amite is navigable for a skiff, but not all the way up. That in making the survey of the Conway grant for Rightor, he has given Rightor his proportion according to the opening of the grant itself. That the distance from where McDonogh's upper line strikes the Amite, to the lake, in a direct [line], is about seventeen miles.

J. B. Ory, witness for Rightor, sworn, says: He has resided for some time near the mouth of Blind river. He has never measured its width, but it is a wide bayou, and very navigable, and at its mouth is about two arpens wide, but goes up narrowing, and is navigable for a steamboat or large schooner for twenty miles. Witness is in possession, for Mr. Bringier, of his concession under the Houma, a grant for about four years. There are no establishments higher up on Blind river: all the land higher up is low and cypress swamp, and cannot be inhabited. The land on the bayou has no value, other than for the benefit of the wood. The Little Amite is a bayou pretty navigable on the south side, but on the upper side is not; and is very narrow, and has not more depth than five or six feet. The bayou Chêne Blanc, at the mouth, is about 60 to 100 feet wide; but higher up, towards Little Amite, it is narrow and often dried up, and can be crossed dry-shod. The course of Blind river, in its course towards the lake, is about north-east.

Cross examined by McDonogh.

Has not much knowledge of New river; has been there but once: it passes through the swamp, and is blocked up by logs. On one side it is a fine bayou, and navigable for about two miles; and on the other, and where it empties into bayou Accadien, it is also a navigable bayou, and several feet deep. The Petite Amite, near the lake where it empties into Blind river, is about 150 to 200 feet at the mouth, and about 20 feet deep, so that a large schooner can enter its mouth, but cannot go through to the Amite: hunting pirogues go through it. The width of the bayou Cadet or Conway is wide enough at the mouth for a schooner to enter.

Party for Rightor offered in evidence the letter No. [5], now filed.

Mr. Collin recalled by Rightor.

That if the lines of McDonogh were run out on parallel lines, fronting 30 arpens on the Mississippi and lake Maurepas, it would not conflict with the land in dispute.

Cross examined by McDonogh.

Says that in his return of the surveys made by him, he thinks he has given these bayous as not being navigable streams. That as

far as a stream having one hundred feet width at its mouth, and 20 feet depth, as far as it carries that distance, he would consider it as navigable.

Cross examined by plaintiffs.

That in making his examination, he found a settlement. Said [settlement] belonged to Gov. Johnson, and he thinks it is about 15 or 20 miles below the upper limit of the land in question. That at the place marked on the plan filed 10th December last, marked Shell bank, he thinks there is a log house; and he found several settlers on the Amite, who seemed to have been there some time. He saw but one negro at the Shell bank, and there was quite a field there. The other settlements along the river did not appear as well settled.

John W. Watson, witness for rightor, sworn, says: He run the upper line of the land claimed by McDonogh, at McDonogh's request; that where the upper line strikes the Blind river, the river is from 180 to 200 feet in width, and deep enough to float a vessel of 500 tons.

Cross examined by McDonogh.

In starting from the Mississippi to run out the line, he found the old line by measuring from the line above, which McDonogh told him was the one. 80 arpens back from the river, he found marks, such as blazes on the trees, such as are made by the surveyors; they were in a line by the compass. He supposes that Indians never carried compasses to make their lines. McDonogh showed him several plans before he started on the line. He run the lines according to the plans shown him by McDonogh, and according to the blazes. He found the depth to be twenty-one or twenty-two miles. He stopped at a basin, because he could get no further. He supposed he had got as far as the Amite, but afterwards found out that he had not. He presented a letter to Bringier, from McDonogh, before running the line.

Testimony filed, May 1st, 1839.

J. B. Ory, examined by Rightor, says: That the first person he saw living on the land, fronting on the river, was William Conway, which was in 1795 or 1798. He frequently passed there with his father, and recollects of having seen Conway living there about that time. He thinks that there were twenty-four arpens front, if he recollects well, in 1802. His father was bargaining with Conway to buy the land for two thousand dollars, the land was then under cultivation. The four children of Conway succeeded in the possession of the land: one named John, who had six arpens front; the next, Mrs. Moran, a daughter of Wm. Conway, who had six arpens below Mrs. Morel; he thinks was possessed by Mrs. Rightor, also the

daughter of Wm. Conway; and the six arpens below Mrs. Rightor were possessed by James Conway, a son of Wm. Conway. Mr. Hampton purchased the upper six arpens of John Conway, and it is now in the possession of Hampton's heirs. Bringier had possession of Mrs. Rightor's portion, and is now in possession of it, having become the purchaser. Mr. Laville succeeded to the portion of Mrs. Moran. He thinks that Mr. Strong & al. succeeded Laville in the possession of Mrs. Moran's portion. Does not know who succeeded Strong. That the heirs of Conway spoken of, had possession of the several portions spoken of, up to the time they sold. He has always seen this land cultivated and cleared. That portion of John Conway's was less cleared than the others—but it was cleared, and the whole cultivated with cotton. There was tide water in the Blind river. The lake water, after hurricanes, comes up the river as high as thirty arpens.

Cross examined by McDonogh.

He knew that the upper six arpens were possessed by John Conway, because John told him; and that Mrs. Moran possessed the second six arpens, because she was a daughter of W. Conway. Does not know whether a partition was ever made, or that those partitions were allotted them or not. In 1797 and '98, Wm. Conway cultivated the property to a depth of 6 to 8 or ten arpens.

He means to say by tide water, that the water rose by the force of the easterly winds; that there is a regular tide in the Blind river every day. Witness thinks that he is still in possession of Bringier's land, under the Houmas grant. The only title under which he holds, is the pleasure or will of Bringier. He has no house there, but has negro cabins and negroes there. He has but a verbal permission from Bringier to reside there. From the lines of the property which he saw made by the surveyors about 3 or 4 years ago, he knows that his cabins are within the lines of Bringier's property. He has also known those lines for thirty years. Does not recollect the name of the surveyor. Thinks it was Greenwich. He saw this surveyor on Blind river. He remained two or three days occupied in drawing the lines.

John McCullum, witness for Rightor, sworn, says: He is a practical surveyor, commissioned by the United States. He assisted in surveying the Houmas claim, he carried the claims [chains.] Knows Blind river; it is a large stream, and should suppose it to be navigable for large vessels. He saw schooners carry thirty or forty cords of wood above the mouth of Chene Blanc bayou. The course of Blind river running to lake Maurepas, is about northeast. Knows the point at the Amite, where the upper line of the Houma grant terminates. They commenced surveying from there, and traversed down from that point to Lake Maurepas. He should think the distance in a straight line to be about fifteen or twenty miles. Does not know

where the line of McDonogh strikes the Amite. That between the Amite and Blind river, there is the Petite Amite, which is wide at the mouth, and for four or five miles *wide*, deep and navigable; but further up, it is narrow and serpentine in its course. Recollects on going up in a pirogue, that they experienced some difficulty in getting through the brush.

Party for Rightor offered in evidence a plat of survey, made by Greenwich, now filed, and marked No. [7;] also a plat of survey, now filed, and marked No. [8.]

McCullum re-examined by Rightor, says: That plan [8] is a correct copy of the original, made by him, and exhibits a correct topography of the property, and of Lake Maurepas, and Blind river.

The map called for by McDonogh, on Slidell, which accompanied the sale from Rightor to Millaudon & al., is considered as being in evidence, and admitted as such.

Defendant McDonogh offered in evidence a certified plat of survey of the land claimed by McDonogh, now filed, and marked No. [9.]

John W. Watson.—Cross examination resumed by McDonogh.

He thinks that he ran the upper line of McDonogh's property in the month of October, 1830. The letter No. [10,] now shown him, is in witness' handwriting; and the other letter [11,] also shown to him, he believes to be in the handwriting of Rightor, and he thinks it to be the one referred to in witness' letter. The letter [12,] now shown him, is also in witness' handwriting.

Louis Bringier, witness for defendant McDonogh, sworn, being shown the letter [13,] says: It is in the handwriting, and bears the signature of Doradon Bringier. D. Bringier is the brother of witness; he occupies the lower portion of the Houmas grant, with the exception of the last arpent, which belongs to Mrs. Tureaud, who is a sister of witness.

Defendant McDonogh offered in evidence the letter [11,] referred to by witness Watson.

John W. Watson.—Cross examination resumed by McDonogh.

That the sketch [15,] was made by him, and exhibits a correct sketch of the line, with the exception of the course which he put down some two or three weeks since by request of McDonogh. He took the course from a copy of a plan on a thin piece of paper, shown to him by McDonogh. He did not take the course from any notes of the survey made by him, because he kept no notes. He cannot tell what course he ran the line, for he does not recollect. He projected the line from field notes, which he had at the time, but which he has not preserved. He ascertained at the time the length of the line; he is now convinced from the receipt [14,] now filed, that the length of the line was but nineteen miles.

Defendant McDonogh offered in evidence the plan [13,] referred to by Watson, as explanatory of the cross examination, and connected with it; the endorsement on the back being admitted to be in McDonogh's handwriting.

Cross examined by Rightor.

Does not think that he measured the front line of McDonogh's plantation; he measured the line from an old one about six arpens above. That, beyond the forty arpens in depth, he marked the lines as he went along. The chain-men were black—believes they were slaves furnished him by McDonogh. He considers this survey as a private job for McDonogh. He made no return of it to the office, nor had he any order to that effect from any superior officer. The blazes which he saw were not on the line which he run, but he crossed them. He saw none in the direction he was running the line. He should think that the blazes which he saw might have been a couple of years. He found posts on the line he ran at forty arpens. He put down at eighty arpens. Does not recollect of seeing any posts or marks at the forty arpens; he might have seen some. He saw no indications or marks of blazes, showing that any surveyor had ever run the line which he did from beyond eighty arpens to the Amite. Does not know whether, when Rightor wrote the letter, he knew what particular line witness was going to run for McDonogh. Witness himself did not know. Witness was then deputy surveyor of the United States.

Louis Bringier, examined by Rightor, being shown plan No. 21, on file, says: He cannot say whether it was made from actual survey and field notes, or not. The courses of the two upper lines of that survey are impossible, as they ought to cross each other. That he has run the lines of Mad'm Tureaud, and it seems to him that there are more water courses than are laid down on said plan, some two or three of which are navigable. That in running the courses they always note the corner trees. He does not see any on this plan, and in the procès verbal no courses are mentioned; and it is not absolutely necessary to mention the courses on the procès verbal when they are mentioned on the lines. In Spanish surveys it is always done, but in American surveys it is never done—they only mention it on the plat. It is usual in surveys to mention the water courses in the procès verbal. That a survey of thirty arpens front on the river, between parallel lines running to the lake, could not give less than the same front on the lake. The front on the lake might be more.

Witness has been in the habit of visiting this neighborhood very frequently, and recollects the time when William Courcy resided there. He knows that W. Courcy has been in possession of the front of the Houma's grant ever since witness was a small boy, having an opening and lines well fixed and known. He knows

that the lines open considerably, and run at right angles. He has never heard the opening and lines of the Houma grant to be disputed.

That at that time, when he was but eight years of age, he understood, and heard it said, that Maxent claimed the whole land to the lake, and since then the heirs of Clark claim it.

Cross examined by McDonogh.

There is no list of the tables by which the variations of the compass in different years can be ascertained, because the tables are not regular. If it is to ascertain the variations of the compass on a survey made twenty years ago, he takes the line as fixed by the surveyor who made the survey twenty years ago; and if he does not find the continuation of the line by his compass, he looks about until he finds the old line. That between 1810 and 1820, there is considerable variation in the compass in that neighborhood.

It is agreed that, in case of an appeal, all plans and documents may be taken up in originals to the Supreme Court.

Defendant offered in evidence the copy of the plan of Pothier, now filed, and marked No. [15].

L. MILLAUDON & al.
vs.
JNO. MCDONOGH. } Order.—April 30th, 1839.

On motion of Geo. Strawbridge, esq., of counsel for the defendant, John McDonogh, it is ordered by the court that John Slidell, one of the plaintiffs, do forthwith produce in court a certain map or plan furnished him by the defendant Rightor at or about the time of the sale, showing the position of the two grants under which the different parties in this cause claim.

L. MILLAUDON & al.
vs.
JNO. MCDONOGH. } Order of April 30th, 1839.

This cause came on to-day for trial before the court, pursuant to adjournment; when, after hearing testimony, the same is continued till to-morrow morning at 10 o'clock.

Defendant's bill of exceptions, filed May 1st.

On the trial of this cause, on this first day of May, 1839, John W. Watson, a witness introduced by F. A. Rightor, called in warranty, being under examination, the defendant McDonogh presented to the said witness three letters, two from the witness Watson to the defendant McDonogh, one dated the 29th day of April, 1830, the first marked [12,] and the second marked [10]; and also a let-

ter from F. A. Rightor, warrantor as aforesaid, to the defendant McDonogh, dated October 25th, 1830, marked [11]; and also a letter from D. Bringier, the proprietor of the lower part of the Houma's grant, having first proved the signatures of all the said letters, to prove that the said Rightor was connaissant of the running of the said line in 1830; and that the same was publicly done with the knowledge of the adjoining proprietors, and particularly of the said Rightor and Bringier; to which the counsel for the said Rightor objected; the court admitted the letter of Rightor, and rejected the rest; all of which letters are hereunto annexed, and made part of this bill of exceptions, and to which opinion of the court the counsel for the defendant excepts, &c. &c. &c.

(Signed) A. M. BUCHANAN, *Judge.*

[13.]

ASCENSION, *le 27 Avril*, 1830.

MON CHER MONSIEUR: Je viens de recevoir votre amicale lettre du 21 cour't. qui m'a été remise par Mr. Watson, qui m'a observé qu'á cause des hautes eaux, il lui serait impossible de tirer votre ligne maintenant; vous pouvez être certain que je contiburai pour moitie sur toute la portion que mes lignes renfermeront sur la votre.

Je crois que vous feriez bien de voir Mr. Laville, sa terre se trouvant dans la même situation que la mienne raport á vos lignes.

Votre dévoué serv'r et ami,

(Signé) ML. D. BRINGIER.

TO JNO. MCDONOGH, ESQ.

[12.]

DONALDSON, *April 27th*, 1830.

DEAR SIR: Your favor of the 21st, covering a letter to Mr. Bringier, has been received, and its contents noticed.

Yesterday I presented your letter to Mr. Bringier, and he is quite willing to pay a proportional part of the expense of running the line mentioned, yet thinks it impracticable to extend the line in full depth at this time.

Sept. will be as soon as it will be practicable to execute the survey. I will, however, inform you, before I commence the survey, at what time it may be done, that you may be present.

Your claim, in the rear of the Zacharie tract, has not been surveyed; from the vagueness of the description in the confirmation, it was supposed to extend to eighty arpens only. The land which it covers is now surveyed into square sections. The words of the confirmation being "varying in depth;" from this expression it was thought to extend to but eighty arpens. You will do well to have an order from the register, H. B. Cenas, for the survey; it is now represented in dotted lines on the township plat; but the principal deputy surveyor could recall those maps, and have your

claim represented and approved, if the register will give an order of survey.

I am, sir, with the greatest respect,

Your obedient servant,

(Signed) JNO. W. WATSON.

P. BELLY to JNO. MCDONOGH, ESQ.

[10.]

DONALDSON, *October 30th*, 1830.

DEAR SIR: I find it will be impossible for me to recover strength sufficient in time to be able to comply with Mr. Rightor's note to you. As I shall be obliged to carry on my back a blanket with several pounds of bread and meat, which, together with my compass and staff, will be a load; and as there are no hands to be hired here, I must, of necessity, beg leave of you to engage them and send them up, and also a quantity of bacon, say fifty pounds of middlings, which may be put on board of a steamboat and left at the plantation.

I am sorry to trouble you, sir, but I can see no other way.

I am, sir, with the greatest respect,

Your obedient servant,

(Signed) JNO. W. WATSON.

P. S.—On the second Tuesday in November, I will, without fail, be at the appointed place, and I shall want four men.

To JNO. MCDONOGH, ESQ.

McDonogh's bill of exceptions, filed May 1st, 1839.

On the trial of this cause, on this first day of May, 1839, the counsel for A. F. Rightor offered in evidence two plans, marked No. [7] and No. [8,] purporting to be surveys.

1st. Of the part of the land comprised in the original Houma's grant, belonging to Bringier; and, 2d, of Conway, and a part of Burgeois; to the introduction of which, the counsel for the defendant McDonogh objected, because the same is certified by an interested person, to wit, H. J. Williams, who holds a part of the land in dispute under a conveyance from Rightor, as appears by the documents on file, and given in evidence by the plaintiffs in this suit.

2d. Because it does not appear to be a survey made according to the act of Congress, and by the said act made or considered as a part of the records or archives of the surveyor general's office, a copy of which, by law, could be offered in evidence.

3d. That the document *per se* is not evidence in a cause pending in a State court according to the laws of the State; and an act of Congress can only, in a case like the present, form a rule for the courts of the United States. But the court overruled the objection, and admitted the document in evidence; to which opinion of the

court, the defendant McDonogh's counsel excepts, and prays this his bill of exceptions may be signed.

(Signed) A. M. BUCHANAN, *Judge.*

Rightor's bill of exceptions, filed May 1st, 1839.

Be it remembered, that on the first day of May, 1839, this case being on trial, plaintiff McDonogh offered in evidence a paper, purporting to be a copy from a plat recorded in the office of the register of the land office at New Orleans, marked [9], to the introduction of which evidence Rightor excepted, on the grounds—

1st. That it was offered after the evidence of the plaintiff. McDonogh had closed his evidence, and did not rebut any part of the testimony adduced by the defendant Rightor.

2d. That it was res inter alios acta, and could not affect the defendant Rightor.

3d. And on all the grounds mentioned in bill of exceptions to documents Nos. 21 and 23.

And the court having overruled the objection, and admitted the paper for what it was worth as rebutting evidence, alone considering McDonogh plaintiff in this action, Rightor, by his counsel, excepts to the opinion of the court, and tenders this bill of exceptions; which is signed accordingly.

(Signed) A. M. BUCHANAN, *Judge.*

Rightor's bill of exceptions, filed 1st May, 1839.

Be it remembered, that on the first day of May, 1839, this cause being on trial, plaintiff McDonogh offered in evidence a letter, [11], purporting to be from Mr. Rightor to McDonogh, dated 25th October, 1830, to the introduction of which Rightor, by his counsel, objected, on the grounds—

1st. That the said letter was not written by Rightor in any official capacity.

2d. That at the time the said letter was written, Rightor had no interest in the land in controversy.

3d. That it did not rebut the testimony introduced by defendant Rightor.

4th. That it has no connection on its face with the issue joined, and appears to have been written at the request of Watson.

And the court having admitted the evidence, on the ground that the party, Rightor, was bound by his acts, Rightor, by his counsel, excepted, and tenders his bill of exceptions; which is signed accordingly.

(Signed) A. M. BUCHANAN, *Judge.*

L. MILLAUDON & al.
vs.
JOHN MCDONOGH. } Order—May 1st, 1839.

This cause, continued from yesterday, came on again to-day for trial; when, after hearing testimony, the court order that the same be continued till to-morrow morning at 10 o'clock.

Rightor's bill of exceptions, filed May 2d, 1839.

On the trial of this cause the defendant McDonogh offered in evidence, after Millaudon & others, and Rightor had offered all their testimony, document marked [15]. Said Rightor, by counsel, opposed the introduction of the same, on all the grounds on which he opposed the introduction of documents No. 21 and that marked [19], and on the farther ground that said document contradicts, and is inconsistent with the said documents [21] and [9] already offered in evidence by said McDonogh. The court overruled the objections, and admitted the document in evidence; to which decision of the court said Rightor, by counsel, excepted; which bill of exceptions is signed.

May 2d, 1839.

By the Court.

The court admitted the document mentioned in this bill of exceptions for what it was worth, expressing no opinion upon its authenticity (except as a copy) or its effect.

(Signed) A. M. BUCHANAN, *Judge.*

Documents introduced on behalf of defendant McDonogh.—No. 19.

Copy of a French land grant of thirty acres front to the river, 16 leagues above the town, running as far as lake Maurepas, in favor of P. Jh. Delile Dupard, April 3d, 1769.

Charles Philippe Aubry, chevalier de l'ordre royal et militaire de St. Louis, commandant pour le roi à la Louisiane, et Denis Nicholas Foucault, faisant les fonctions d'ordonnateur en cette province.

Vû l'exposé en la requête en l'autre part du sieur Pierre Joseph Delille Dupard, père, nous avons concédé et concédon par ces présentes au dit sieur Dupard, trente arpens de face au fleuve sur toute la profondeur qui se trouvera jusques au lac Maurepas, de la terre ou étaient ci devant deux villages de sauvages Colapipas, située à environ seize lieues au dessus et du même côté de cette ville, à prendre de l'habitation du nommé * * * * * * Allemand jusqu' à la rencontre de celle du nommé Joseph Lacombe, mulâtre, libre pour par lui et ses heirs ou ayant cause jouir et disposer en toute propriété et usufruit et comme de chose à lui appartenant, des dits trente arpens de face sur la dite profondeur sauf titres ou possession antérieurs à ce contraires et à la charge de payer les droits seigneuriaux si quelques uns sont par la suite établis en cette dite province. Nous en reservons d'ailleurs pour sa Majesté tous et chacuns, les bois nécessaires pour constructions de forts, magazins, et autres ouvrages qu'elle a ordonné ou pourra ordonner pour l'avenir; même pour le radoub et carême de ses vaisseaux toutes fois et quantes il en sera besoin, ainsi que le terrain nécessaire pour chemins royaux et fortifications.

Donné à la Nouvelle Orleans, sous les sceaux de nos armes et contre seings de nos secretaire le trois Avril, mil sept cent soixante neuf.

(Signé) AUBRY & FOURCAULT.

Contresigné—SOUBIE & DUVERGE.

I do hereby certify the foregoing to be a true copy of a complete French land grant, as recorded in book No. one, page two hundred and thirteen, entitled, "Registre pour servir à l'enregistrement des concessions accordées par Mess. le Gouverneur et ordonnateur de cette province, commencé le 30 May, 1753," which makes part of the records of land grants delivered over into this office by the Intendant General of the Provinces of Louisiana and West Florida at the change of government.

In testimony whereof I have hereunto set my hand, at the city of New Orleans, this 13th day of June, in the year of our Lord 1818, and the 42d year of American independence.

(Signed) CHS. APPE,
Clerk and Trsr. land office.

Land off. East. Dist. State of Louisiana.

Eastern District, State of Louisiana:

I do hereby certify that Charles Appé, whose name is hereunto subscribed, is now, and was at the time of subscribing the same, clerk and translator to said office, and that full faith and credit ought to be given to all documents, by him so signed as such.

Given under my hand, the day, month, and year, last aforesaid.

(Signed) SAML. H. HARPER,
Register Eastern District of Louisiana.

No. 22.

Claim of John McDonogh, jr., & Co.

No. 406.] LAND OFFICE, NEW ORLEANS.

John McDonogh & Company claim a tract of land situated in the county of Acadia, on the east shore of the river Mississippi, sixteen leagues above New Orleans, containing thirty-two arpens front, with a depth extending as far as lake Maurepas.

This tract of land has formerly been claimed before the board of commissioners, and the depth extending beyond forty acres, rejected by them, for want of evidence of title; but the claimant has since produced a complete French title to the whole quantity claimed, in favor of Pierre Delille Dupard, (under whom he claims,) dated 3d day of April, 1769.

I, the undersigned, register of the land office for the eastern district of Louisiana, do hereby certify the foregoing report (No. 406) to be a true copy from the "Reports of the Register and Receiver, &c., &c.," under the first class, species 1st, of complete French or Spanish titles, on record in my office.

I further certify that said reports (bearing date the 20th November, 1816) were confirmed by act of Congress, of May 11th, 1820.

In faith whereof, I hereunto subscribe my name, at New Orleans, this 10th day of June, 1830.

(Signed) HILARY B. CENAS,
Register East. Dist. La.

No. 24.

Vente de propriété par Mr. et M'me J. Arnoult à Le Bourgeois et Gillard.

Collatione.—Sepan cuantos esta vierén como yo Dn. Juan Arnoult, regidor perpetuo y receptor de Penas de Camara del Cabildo, justicias y regimiento de esta ciud'd y Da. Maria Delille Dupard, consortes con licencia y espreso consentimiento que la referida pidio à su marido paro otorgar esta escritura, y este se la concedio tan amplia como por drō se requiera y de ella usando otorgamos por la presente que vendemos realmente y con efecto a Joseph Gillard y Pedro Le Bourgeois de este mismo vecindario, catorce arpanes y doce tuesas de tierra de frente con el fundo que le corresponde situadas a dies y seis leguas de esta ciudad a este lado del rio ariba lindando por un lado con tierras de Felipe Panqueeme y por el otro con otras de Enrique Fontenant la misma que nos pertenece, a saber siete arpanes y seis tuesas que me correspondieron à mi la dicha Da. Maria Delille en otros bienes constantes de la hijuela de particion hecha por Dn. Andres Almonaster y Roxas, á diez y nueve de Diciembre, de mil sete cientos setenta y seis, que dados por fallecimiento de mi difunto padre y los otros siete arpanes y seis tuesas que le correspondieron à los menores Delille Dupard de quien's. Soy curador y a quen's he pagado yo el dicho Dn. Juan Arnoul la porcion que fue estimado dha tierra, todo lo cual consta de las dilig's de particion de los enunciados bien's y protocola del año de mil sete cientos setenta y seis cuyos catorce arpanes y doce tuesas de tierra de frente *con el fondo que le pertenece* vendemos à los ante dichos con todas sus entradas y salidas, usos, costumbres drōs. y servidumbre libre de gravamen e hipotecas como lo certifico yo el presente Eno. Anotador de ellas en precio de dos mil ps. $ del cuño Mexicana de los cuales he recibido mil ps. $ de contado y las mil y cien pesos restantes pagaderos, quinientos y cinq'ta ps. en un año de la f'ha y los quinientos y cinq'ta pesos restantes y ultimo pago en dos años de la f'ha mediante lo cual nos apartamos y separamos del drō. de propriedad posecion util dominio y senōria qe. a dichos catorce arpanes y doce tuesas de tierra habiamos y teniamos y todo lo cedemos renunciamos y trasparamos en los compradores y en quien sus causas y drōs hubiere para que como suzas proprias los posean. Cambien vendan o enagenen a su voluntad en virtud de esta escritura que a sus voluntades favor otorgamos en señal de real entrega con lo que ha de ser visto haber adquirido sus poseciones sui que

necesite de otra forma de que les relevamos y nos obligamos à la evicion, seguridad y lancamiento de esta venta en toda forma de drō. con nōs biens, habidos y por haber doi aqui por inserta la clausula quarantogia y renuncio las leges de mi favor con la g'ral que lo prohibe.

Y estando presente al otorgamiento de esta escritura la referida D'a Maria Delille las del Emperador Justiniand Belleñano, senatus consultus leges de Toro Madrid y partidas nuevas y viejas constitucion's. y demas que hablan en favor de las mugeres del efecto de las cuales hesido advertida por el presente En'o y como sabe dora de ellas, las renuncio y juro por Dios n'ro Senor y una Señal de cruz, conforme a dro que para otorgar este escritura no he sido inducida y atemorigada por el dicho me marido ni por otra persona y declaro que la hago de mi libre y espontenea voluntad y que resulta en mi propria utilidad y beneficio y que no reclamare esta escritura por mis bien's. dotates patrimonial hereditarias ni adventicios y que contra este juramento tengo hecho otra pretencion ni reclamacion ni commutacion a nuestro muy Santo Padre. Sa nupcio legado o quien con d'ro me lo puedo y deba dar y si de mi mota proprio me fuere concedido no usare de ella pena de perjuro y de caer en caso de menos valer e infamia y estando presente al otorgamiento de esta escritura nos los referidos Joseph Gillard y Pedro Le Bourgeois la aceptamos a nuestro favor reciviendo comprado dichos catorce arpanes y doce tuesas de tierra de frente, y el fondo que le correspondo en la cantidad y conformidad que nova vendida de ellas ha damos por entregados a nuestra voluntad y otorgamos forma recivo y nos obligamos a satisfacer las enunciadas mil y cien ps. $ del cuño Mexicano de la plazas Señalados llanamente y sui pleyto alguno al complimiento de lo cual obligamos nuestros bienes habidos y por habidos y especialmente hypoticamos con la calidad de non alienando dichos catorce arpanes y doce tuesas de tierra las cuales no vendaremos ni enagenaremos hasta el real y efectivo pago de d'ha suma. En cuyo testimonio es f'ha la carta en la ciudad de la N'va Orleans, a trece de Enero, mil sett's ochenta y siete ds. y los otorgantes a qs. yo el En'o doy fe conozco lo firmaron siendo t'gos Dn. Miguel Gomez, Dn. Solomon Mallines, y Dn. Antonio Blanc, vecinos de esta cindad presentes.

(Signé) JEAN ARNOULT,
MARIE DELILLE ARNOULT,
LE BOURGEOIS,
GILLARD.

Ante mi, Fernando Rodriguez, En'o pub'co. Pour copie conforme à l'original étant en mon étude pour recours.

En foi de quoi j'ai signé les présentes, et y ai apposé le sceau de mon office à la Nouvelle Orleans, le trente Juin, mil huit cent trente six.

[L. S.] (Signed) LOUIS T. CAIRE.

No. 25.

Venta real J'h Gillardo a Pedro Le Bourgeois.

Sepan cuantos esta carta vieren, como yo Joseph Gillard, vecina de esta ciudad otorgo que vendo realmente y con efecto à Pedro Le Bourgeois de este mismo vecindario la mitad de catorce arpanes de tierra con doce tuesas de frente, y *el fondo que le corresponda*, situada a diez y seis leguas de esta ciudad rio arriba y de este mismo lado advirtiendo que la referida mi mitad linda por un lado, con tierras del comprador y por el otro con otras de Enrique Fonteneau, la misma que me pertence por haber las comprado en compañia a con el expresado Le Bourgeois del Señor Dn. Juan Arnoult y de Da. Maria Delille, su consorte como consta de la escritura otorgada por ante Dn. Fernando Rodriguez, En'o publico, que fue de esta ciudad, con f'ha trece de Enero, del año pasado de mil setecientos ochenta y siete y se la vendo al ante dho, con todas sus entradas y salidas, usos, costumbres d'ros y servidumbres, y con todo lo que se halla encima, libre de gravamen e hipotecas como lo certifico el presente En'o anotador de ellas en precio de dos mil y tres cientos pesos que me habra de pagar, a la fin de este año; mediante lo cual me aparto y separo del d'ro de propriedad posecion util, dominio y senorio que a d'hos siete arpanes y seis tuesas de tierra, habia y tenia y todo lo cedo renuncio y traspasado en el comprador, y en quien su causa, y d'ro hubiere para que como suyos proprios los posea, ven'd, cambie o enagene a su voluntad en virtud de esta, est'a que en su favor otorgo en Señal de real entroga, con loque ha de ser, visto haber adquirido su posecion, sin que necesite de otra prueva de que lo relevo y me obligo a la eviccion, seguridad y saneamiento de esta venta en toda forma de d'ro con mis bienes habidos y por haber doi a que por incerta la clausula guarantifia y renuncio las leges de mi favor con la g'ral que lo prohibe y estando presente al otorgamiento de esta, est'a yo el referido Pedro Le Bourgeois lo accepto a mi favor recibiendo comprado d'hos siete arpanes y seis tuesas de tierra en la cantidad y conformidad que me van vendidos de ellos me doi por entregado à mi voluntad y otorgo formal recibo y me obligo a satisfacer las enunciadas dos mil y tres cientos pesos, al playa señalado, llanamente y sin pleyto alguno, al complimiento de lo cual obligo mi persona y bienes habidos y por habe, y respectamente, hipoteco con lo calidad de non alienando d'has siete arpanes y seis tuesas de tierra de frente, las cuales prometa no vender ni en manera alguna enagener hasta el real y efectivo pago de d'ha suma.

En cuyo testimonio es fecha la carta en la ciudad de la Nueva Orleans, a siete de Mayo, de mil setecientos ochenta y nueve años, yo el En'o doy fé conozco, à los otorgantes que lo firmaron siendo

t'gos Dn. F'do Ibanez, Dn. Fran'co Sopaz, Dn. Santiago Lemaire, vecinos y presentes.

(Signé) LE BOURGEOIS.
JOSEPH GILLARD.

Ante mi, PEDRO PEDESCLAUX,
En'o Pub'co.

Pour copie conforme à l'original resté en mon étude [*Collationée.*] pour recours. En foi de quoi j'ai signé le présent, et y ai apposé le sceau de mon office à la Nouvelle Orléans, le deux Juillet, mil huit cent trente six.

(Signed) LOUIS T. CAIRE, *Not. Pub.*

No. 26.

Vente d'habitation et d'esclaves, 3 *Mars,* 1806. *Pierre Le Bourgeois á Jno. McDonogh et Sd. Brown.*

Aujourd'hui trois du mois de Mars de l'an mil huit cent six, et la trentième de l'indépendance Américaine; Pardevant moi Pierre Pedesclaux, notaire public des Etats Unis d'Amérique à la Nouvelle Orleans.

Est comparu Mr. Pierre Bourgeois habitant à la première côte des Acadiens, ce jour en cette ville, lequel par ces présentes, déclare

No. 26.

Vente d'habitation et d'esclaves, 3 Mars, 1806. Pierre Le Bourgeois, à Jno. McDonogh et Sd. Brown.

Aujourd'hui trois du mois de Mars, de l'an mil huit cent six, et la trentième de l'indépendence Américaine.

Pardevant moi Pierre Pedesclaux, notaire public des Etats Unis d'Amerique à la Nouvelle Orleans.

Est comparu Mr. Pierre Bourgeois, habitant à la premiere côte des Acadiens, ce jour en cette ville. Lequel par ces présentes déclare vendre, céder, quitter délaisser, transporter, des maintenant et à toujours, en toute propriété, avec garantie de tous empêchemens quelconque et toutes autres hypothéques, à l'exception de celles consenties par acte à notre rapport le trèize Mai, mil sept cent quatrevingt neuf, en faveur de Etienne Reyne, pour la sécurité du paiement de la quantité de sept mille neuf cent cinquante quatre piastres, de la quelle hypothéque une partie a été déchargé par acte du vingt quatre Décembre mil sept cent quatrevingt dix à notre rapport, une autre partie par deux autres actes au rapport de Michel Cantrelle, commandant de la côte des Acadiens, le premier du vingt deux Fevrier, mil sept cent quatrevingt quatorze; et le second du vingt Avril, mil sept cent quatrevingt seize; une autre hypothéque consentes à notre rapport le onze Janvier dernier en faveur de tous ses créanciers pour la sureté de paiement de deux mille quarante trois piastres six escalins; des quelles hypothéques a été donné pliene connaissance aux acquereurs, ce que je certifie moi notaire-annotateur.

A MM. John McDonogh, jeune, Shepherd Brown, négocians en cette ville, présens et acceptans pour eux, composée de dix huit

arpens trois toises et demi de face au fleuve, et quatrevingts de profondeur, attenant par en haut à demoiselle Marianne Lanoix, et par en bas à Ambroise Haydel; laquelle appartient au vendeur pour l'avoir acquise, la majeure partie conjointement avec Joseph Gillard, de M. Jean Arnold et Marie Delille, son épouse, par acte à notre rapport le treize Janvier, mil sept cent quatrevingt sept et lui avoir transporté, après son droit sur la terre, le nommé Joseph Gillard par acte aussi à notre rapport, le sept Mars, mil sept cent quatrevingt neuf, et le reste pour lui avoir été concédé par le Gouverneur Général de cette province en date du vingt sept de Janvier, et vingt six Octobre, mil sept cent quatrevingt onze; le tout conforme aux deux plans et titre de concession que le vendeur remet en notre présence aux acquéreurs paraphés par nous notaire. Il leur vend pareillement tous les edifices, animaux outils et utensils et vingt quatre pièces d'esclaves des deux séxes et differens âges, nommés: *Momus* de trente sept à trente huit ans, charretier, laboureur et scieur de long; *Cupidon*, de même âge à peu près, négre de pioche et hâche; *Jupiter* de vingt cinq à vingt huit ans, laboureur et charretier; *Lindor* de vingt quatre à vingt six ans; *Narcisse*, *Augustin* tous trois de vingt quatre à vingt six ans, laboureurs charretiers; *Arlequin* du même âge, bon à tout; *Jean Louis*, du même âge, bon à tout et sachant conduire un équipage; *Jean Pierre*, de quinze ans créole, charretier; *Scipion*, de vingt quatre à vingt six ans, pioche; *Paul*, *François*, *Raine*, de trente à trente huit ans, pioches et hâches; *Gabriel*, quarante ans, pioche; *Raphaël*, trente cinq ans, équarisseur, scieur de long, un peu charpentier; *Claude*, de trente huit à quarante ans, pioche; *Manon*, créole, de quarante huit à cinquante ans; la *Petite Manon* de quinze ans, créole; *Rose*, de trente à trente deux ans; *Isabelle*, du même âge; *Catherine* de sept à huit ans, créole; *Charles* de cinq à six; *Zénon* de trois à quatre ans, et *Eleanor* de deux ans. Lesquels esclaves les acquéreurs les recoivent tels qu'ils se comportent sans garantie de la part du vendeur, excepté des quatre maladies telles que la folie, l'épilepsie, la lepre et les écrouelles, prescrites par la loi.

La présente vente passée entre les parties aux clauses ci-dessus, et en outre pour prix et somme de quarante six mille cinq cents piastres que le dit sieur vendeur déclare et reconnait avoir reçue des acquereurs, avant la passation des présentes; moyennant quoi le dit Le Bourgeois se désiste de tous droits de propriété, possession et jouissance sur les objets ci-dessus vendus, en faveur des dits acquéreurs qui pourront en prendre possession quand bon leur semblera et dorénavant en disposer comme de choses à eux devenues propres, par l'effet des présentes; et promet et s'oblige envers eux, le dit sieur vendeur, à leur procurer la levée des hypothéques énoncés, ce que les dits acquereurs acceptent, et consentent que les objets hypothéques y restent pour la sureté des créanciers. Car ainsi a été convenu entre les parties.

Fait et passé en l'étude à la Nouvelle Orléans, les dits jour, mois et an et en présence des sieurs Barthelemy Campanel et Jean

Marie Choppin les quels, après lecture, ont signé avec les parties et nous notaire.

(Signé) LE BOURGEOIS,
JOHN McDONOGH, JR.
SHEPHERD BROWN,
B'ME CAMPANEL,
CHOPPIN,
PIERRE PEDESCLAUX,
Not. Pub.

Collationnée.

Pour copie conforme à l'original resté en mon étude pour recours. En foi de quoi j'ai signé le présent et y ai apposé le sceau de mon office à la Nouvelle Orléans, le trente Juin mil huit cent trente six.

[L. S] (Signé) LOUIS T. CAIRE, *Not. Pub.*

No. 28.

Copy of sale of John H. Brown and Wm. W. Montgomery, executors of Shepherd Brown, deceased, to John McDonogh, of various tracts of land, lots of ground, and slaves, before M. de Armas, notary public.

Before Michael de Armas, notary public in and for the city of New Orleans, State of Louisiana, United States of America, and in presence of the witnesses hereinafter named and undersigned, personally came and appeared William W. Montgomery and John H. Brown, of the city of New Orleans, who, acting as testamentary executors of the late Shepherd Brown, deceased, and being authorized by the olographic last will and testament of the said Shepherd Brown, bearing date the eighth of November, eighteen hundred and seventeen, and deposited at the office of the court of probates in and for this city, to sell and dispose of the estate of the said Shepherd Brown, have declared that, after public notices given, both in English and in French, in two of the newspapers printed in this city, they have caused a sale to be made at auction of part of said estate by Toussaint Mossy, a public auctioneer in this city, on the fifteenth of June instant; that, in conveyance of said sale, the said appearers, in their capacity aforesaid, do hereby grant, bargain, and sell, with the warranty of all troubles, gifts, debts, mortgages, evictions, alienations, and other incumbrances whatever, except as thereinafter expressly mentioned.

Unto Jno. McDonogh, of the city of New Orleans, here present and accepting, purchaser for him, his heirs, and assigns:

1. Ten lots of ground, situate in the town of McDonogh, marked on the plan thereof, and hereinafter mentioned, from number three to number twelve inclusive, in the square designated number thirty-five; the numbers three, four, and five, measuring each sixty feet in front, on Shepherd row, by one hundred and twenty feet in depth;

the number six, measuring sixty feet in front, on Jefferson street, by one hundred and fifty feet in depth; the number seven, one hundred and twenty feet in front, on said Jefferson street, and sixty feet in front on Columbus street; the numbers eight, nine, and ten, measuring each sixty feet in front, on said Columbus street, and one hundred and twenty feet in depth; the number eleven, sixty feet in front on said Columbus street, and one hundred and twenty feet on Adams street; and the number twelve, sixty feet on said Adams street, and one hundred and fifty feet in depth.

3. The undivided equal moiety of a tract of land situate on the left side of the river Mississippi, sixteen leagues above the city of New Orleans, and lying back of the sugar estate of Lewis Fortin, beginning on the back line of said estate, eighty arpens from the river, by the whole of which back line it is bounded, and extending from thence, on lines parallel with the side lines of said estate of Louis Fortin, back to lake Maurepas, (the estate of Louis Fortin having a front on the Mississippi river of eighteen arpents, three and a half toises, with diverging lines back.) Said land held by complete title from the French Government, dated the third of April, seventeen hundred and sixty-nine, it having been purchased by John McDonogh and Shepherd Brown on the fifth of August, eighteen hundred and eight, of Peter Le Bourgeois.

4th. The undivided interest of one-fourth part of a tract of land situate on the left side of the river Mississippi, sixteen leagues above the city of New Orleans, and lying back of the sugar estate of Messrs. Shepherd [&] Guérin, beginning on the back line of said estate, eighty arpens from the river, and adjoining the line of Lewis Fortin, bounded on said line, a distance corresponding to fourteen arpens, seven toises, and four feet in front on Mississippi, of said estate, extended thereon diverging lines, and extending from thence on lines parallel with the said lines corresponding to said fourteen arpens, seven toises, and four feet in front on river of said estate of Messrs. Shepherd and Guérin back to lake Maurepas; said land held by complete title from the French Government, dated third April, seventeen hundred and sixty-nine, a part thereof having been purchased by John McDonogh and Shepherd Brown on the ninth day of April, eighteen hundred and twelve, of the Eastern Shore of Maryland Louisiana Company, and the residue of Antoine Tregre, on the fourth of March, eighteen hundred and twelve.

No. 29.

Extract de l'inventaire de Delille Dupart.

Estando en la habitacion que dexo por su fallecinviento D. Pedro Delille Dupard en veinte y cinco de Noviembre de mil sete cientos setenta y seis A. D., distante de la ciudad de la Nueva Orleans como diez y seis leguas, rio arriba al lado de la ciudad, compuesta de treinta y seis arpanes de frente y *el fondo hasta el lago* lindando por

un lado que es de abajo con un Alleman llamado Bautisa, y por arriba à la habitacion de una mulata libre vinda de Juan Lacombre, el Sr. D. Santiago Livandais, alcade ordinario de la ciudad de Nueva Orleans, y en jurisdicion por su majestad acompañado de mi el escribano, de Dn. Michaela Michel vinda del ante Dho. de D. Bartholome Macnemara por representacion de Dna. Catharina Delille Dupard. D. Felipe Marigny de Mandeville por la de Da. Fran'ca Delille Dupard, de D. Fran'co Delille Dupard, y D. Franc'co Brontin Curador ad lites de los nietos meinores del ante oho, hijos de Dn. Nicolas Delille Dupard su hijo—D. Juan Arnoul por la de Dna. Mariana Delille Dupard, se continuo la diligencia de inventorios; y por D. Franc'o Simon de Bellille. Dn. Carlos de la Chaise, Dn. Lui. Augustin Menillon, serceros nombrados, se fueron estimando en la forma Sig'to Primera mente estimacion ohas terceros la dicha tierra dela habitacion en mil quatro ciento quaranta pessos a rajon de cuarenta ps. cada arpan —— 1440.

En cuyo estado por ser tarde mandó su merced suspender esta diligencia para continuar la quando convenya y todos los citadas bienes invento riados que daron al ciudado, al cargo de dicho tenedor de ellos a la disposicion de su merced, quien lo firmo con las partes, que supieron y terceras nombradas de que doi fé.

LIVANDAIS,
CARLOS DE LA CHAISE,
FRAN'CO BRONTIN,
FRANCOIS SIMON BELLILE,
FRANCOIS DELLILE DUPARD,
B. MACNEMARA,
DE MANDEVILLE MENILLON,
J. ARNOUL.

Ante mi, ANDRES ALMONASTER Y ROXAS,
Escribano Pub'co.

Certifico que la copia anterior es conforme a la cabaza ingiero y pié del inventario y estimacion de los bienes del difunto Dn. Pedro Delille Dupart que quedan en los autos de su mortuoria a que me refero; y a pedimento de D. L. H. Guerlain soi la presente en la Nueva Orleans a siete de Junio de mil ocho cientos y nueve años, y el trigesimo tercio de la independencia Americana, que firme y séllé con el sello de mi officio.

[L. S.] (Signed) STEPHEN DE QUINONES, *Not. Pub.*

No. 30.

Sheriff's sale of land to McDonogh.

Whereas, I, William S. Watkins, sheriff of the second superior court, district of the territory of Orleans, by virtue of a writ of seizure, to me directed, against a certain plantation situate on the left shore of the river, at Long View, in the county of Acadia, contain-

ing ten acres seven toises and four feet front, and eighty acres in depth, the property of Louis H. Guerlain, as general agent of a certain company known by the title of the Eastern Shore of Maryland Louisiana Company, at the suit of Pierre Lanoix, did sieze all that above described tract of land, and having exposed the same to sale according to law, John McDonogh became the purchaser thereof, for the price of ten thousand six hundred and sixty-seven dollars, which I hereby acknowledge to have received.

Now, therefore, know all men by these presents, that I, the said sheriff, do, in consideration of the premises, and by virtue of the act in such case made and provided, grant, bargain, sell, assign, and set over, to the said Jno. McDonogh, all the above described tract or parcel of land, of ten acres seven toises and four feet front, with eighty in depth, situate on the left shore of the river Mississippi, at Long View, in the county of Acadia, whereon the said Guerlain lately resided; and all the right, title, interest, or demand, which the said Louis H. Guerlain, agent as aforesaid, on the ninth day of May, one thousand eight hundred and ten, as at any time since, had in or to the said tract of land as aforesaid, or any part thereof, to hold the same to the said John McDonogh, his heirs and assigns, for ever.

In witness whereof, I have hereunto set my hand and seal, this fifteenth day of October, in the year of our Lord one thousand eight hundred and ten, and in the thirty-fifth year of the independence of the United States.

(Signed) WILLIAM S. WATKINS, *Sheriff of the second superior court, district of the territory of Orleans.*

Sealed and delivered in presence of
(Signed) W. H. MURS,
H. JOHNSON.

No. 31.

Before Michel De Armas, notary public, dwelling in the city of New Orleans, territory of Orleans, United States of America, and in presence of the witnesses hereinafter named and undersigned.

Personally came and appeared Louis Honoré Guerlain, dwelling in the county of Acadia, territory aforesaid, who, acting by virtue of the power of attorney given to him by Littleton Dennis Trackle, of Princess Ann, Somerset county, in the State of Maryland, on the eighteenth day of July, in the year one thousand eight hundred and ten, the said power of attorney, registered in the office of the notary aforesaid, on the fifth day of October, in the year aforesaid, eighteen hundred and ten, authorizing the appearer to sell and dispose of all the property, of every nature whatever, belonging to the Eastern Shore of Maryland Company, in the territory of Louisiana aforesaid, did declare and say: that for, and in consideration of, the sum of five hundred dollars, to him in hand well and truly paid, at or before these presents, in full for the purchase of the

right, title, claim, interest, and demand, hereinafter mentioned, to be hereby acknowledged, and thereof and from every part thereof doth acquit, release, and discharge, John McDonogh, jr. & Company, herein represented by John McDonogh, their heirs, executors, and administrators, and every of them, for ever by these presents, to the said Lewis Honoré Guerlain, in his capacity aforesaid, hath granted, bargained, and sold, and by these presents doth grant, bargain, and sell, to the said Jno. McDonogh, jr. & Company, their heirs and assigns, all the rights, title, claim, interest, and demand, of whatever name or nature it may be, that the aforesaid Eastern Shore of Maryland Louisiana Company may have on all the land lying on the back part of a certain plantation, situate on the left shore of the river Mississippi, at Long View, in the county of Acadia, containing ten acres seven toises and four feet front, and eighty acres in depth; which plantation formerly belonged to the said Maryland Louisiana Company, and was sold by the sheriff of the second superior court, district of this territory aforesaid, on the fifteenth day of October, in the year one thousand eight hundred and ten. To have and to hold the said land, so lying on the back part of the said plantation, together with its opening, as it may result from the plat and titles thereof, as enregistered at the land office of this territory; and all and singular other the premises hereby bargained and sold, or mentioned or intended so to be, with their, and every of their, rights, members, and appurtenances, unto the said John McDonogh, jr. & Company, their heirs and assigns, to the only proper use of them, the said Jno. McDonogh, jr. & Co., their heirs and assigns, for ever. And the said Eastern Shore of Maryland Louisiana Company shall and will warrant, and for ever defend, the premises aforesaid, unto the said John McDonogh, jr. & Co., their heirs and assigns, against all and every person and persons whatsoever, who may or shall claim from, through, or under them, the said Eastern Shore of Maryland Louisiana Company. For so hath been agreed between the parties, promising, obliging, renouncing, &c., &c.

Done and passed at the city of New Orleans, in the office aforesaid of the notary aforesaid, in presence of Michel J. B. L. Fourcity and Felix de Armas, witnesses to these presents, on the ninth day of April, in the year of our Lord one thousand eight hundred and twelve, and in the thirty-sixth of American independence; and the contracting parties, together with the said notary and witnesses, have hereunto set their hands.

The original is signed: Lewis H. Guerlain, Ag't g'l; John McDonogh; Felix de Armas; Fourcity.

M'L DE ARMAS, *Not. Pub.*

I do hereby certify the foregoing to be a true copy of the original on my notarial records. In testimony whereof, I have hereunto set my hand, and affixed my seal of office, at New Orleans, the day and year above mentioned.

[L. s.] (Signed) MICH'L DE ARMAS, *Not. Pub.*

No. 32.

Vente de terre par Mr. Pierre Lanoix.

Aujourd'hui, vingt troisième jour du mois de Mars, mil huit cent huit, et de l'independance des Etats Unis d'Amerique la trente deuxième année, à onze heures du matin, serait comparu en sa personne, par devant nous Michel Cantrelle, juge de la paroisse St. Jacques, comté d'Acadie, y résidant, le Sieur Pierre Lanoix, habitant y domicilié, lequel nous aurait déclaré et confessé, en présence des Sieurs Jean Duhart et Evariste Villavasse, temoins d'assistance requis soussignés, d'avoir cejourd'hui vendu, cédé, transporté, dès maintenant et pour toujours, avec la garantie de tous droits, charges, hypothéques, alienations, et généralement de tous autres empêchemens quelconques, et à Mr. L. H. Guerlain, agent général de la compagnie connue sous le nom du Eastern Shore of Maryland Louisiana Company, son habitation située sur la rive gauche du fleuve, dans la longue vue de l'arramée à quinze lieues au dessus de la capitale, et qui fait partie de la vacherie ci-devant de Mr. Delille Dupard, la quelle est composée de dix arpens sept toises et quatre pieds de face *sur la profondeur qui devra y correspondre conformément aux premiers titres en faveur du dit Sieur Lisle Dupard*, et dont le dit vendeur repond dans tous les cas d'une profondeur de quatre-vingts arpens, laquelle dite terre tient par en bas à celle de Mr. McDonogh, et par en haut à celle de Mr. Antoine Tregue ; la même terre qu'il avait achetée en trois portions differentes, savoir: six arpens, sept toises, quatre pieds de M'lle Marianne Lanoix, par acte passé au rapport de Mr. Narcisse Broutin, notaire public de la Nouvelle Orleans, le 14 Avril, 1806; deux arpens de face, du Sieur Jean Baptiste Vicner, par acte devant nous le 29 Juillet, 1807; et deux autres arpens de face du Sieur Jacques Materne, aussi par acte passé pardevant le dite Sieur Narcisse Broutin, le neuf Avril, 1807. Sur laquelle susdite habitation de dix arpens, sept toises, et quatre pieds de face, il y a une maison principale, un moulin à coton, un magasin, une cuisine, un autre moulin à vis, un autre magasin à vivre, un pigeonnier, une écurie, remise, cour, jardin, plusieurs cases à nigres; ainsi que tous les objets qui en dépendent, consistans en divers animaux de toute espèce, outils aratoires, et en un mot tout ce qui était attaché à la dite habitation. La susdite habitation, telle qu'elle se comporte, avec toutes les circonstances et dépendances, vendus au susdit Sieur L. H. Guerlin, pour compte de la susdite compagnie, pour prix et somme de seize mille piastres gourdes, payables aux clauses et conditions suivantes, savoir: Un tiers a été payé comptant, compté à la satisfaction du dit vendeur; un autre tiers, payable dans le courant de Décembre de cette présente année; et le dernier tiers pour solde, payable dans le courant de Décembre, mil huit cent neuf. Et au moyen de quoi mon dit Sieur Pierre Lanoix s'est dessaisi pour toujours de tous les droits de propriété qu'il avait sur la susdite habitation, pour les transmettre

au dit Sieur L. H. Guerlain qui l'a accepté en faveur de la dite compagnie, afin qu'elle puisse en jouir et en disposer comme d'un bien à elle appartenant, le dit agent le tenant content pour l'avoir vu, visité, et reçu à sa satisfaction, s'obligeant pour et au nom de la dite compagnie, ainsi qne ses biens présens et à venir, et spécialement il hypothéque en faveur du dit sieur vendeur la dite habitation, laquelle il ne pourra vendre ni aliener en aucune maniere quelconque qu'après l'avoir entierement payée et soldée aux époques ci-dessus indiquées:

Il est entendre entre les parties que la garantie des quatrevingts arpens en profondeur repose entierement sur l'étendue de face de la susdite habitation, et que l'acquéreur auquel seront remis, cédés et transportés, à son profit tous les titres et certificats de propriété, d'arpentage et autres annéxés au contrat, fera tout ce qui sera en son pouvoir pour les faire valoir et obtenir toute la profondeur dont les dites terres pourraient être susceptibles. Sauf que dans le cas ou par ces mêmes titres il ne pourrait obtenir la libre jouissance au delà de quarante arpens de profondeur, le vendeur s'oblige et s'engage formallement à l'indemniser au lui rembourser le prix àuquel les quarante arpens lui seraient cédés ou vendus, par le Gouvernement, s'il arrivait qu'il puisse en refuser la libre possession au dit acquéreur; promettant, &c., renonçant, &c.

Fait et passé les jour, mois et an que des autres part en présence des ci-devant témoins qui ont signé avec les parties contractantes et nous juge susdit qui donne foi.

(L'original est signé) PR. LANOIX,
L. H. GUERLAIN,
JN. DUHART,
EVARISTE VILLAVASSE,
MICHEL CANTRELLE.

Pour copie conforme à l'original déposé en mon étude.

En foi de quoi je l'ai signé et scéllé du sceau de mon office à la Paroisse St. Jacques, le douze Juillet, mil huit cent trente [L. S.] six, la 61e année de l'independance des Etats Unis d'Amérique.

(Signé) L. M. TANEY, *Judge.*

No. 35.

Sale Pierre Materre to Antoine Tregre.

Aujourd'hui vingt huitième jour du mois d'Août mil huit cent un, à neuf heures du matin, serait comparu en sa personne pardevant nous Dn. Michel Cantrelle, lieutenant d'infanterie, commandant civil et militaire de la Paroisse St. Jacques, côte de cabahonache aux Acadiens, y résidant, le sieur Pierre Materne habitant du dit quartier, lequel nous aurait déclaré et confessé en présence des Sieurs Jean Duhart et Michel Simon, témoins d'assistance requis, sous-

signés, d'avoir ce jourd'hui vendu, cédé, quitté et transporté dés maintenant et pour toujours et en pleine propriété au Sieur Antoine Trégre ci présent et acceptant pour lui, ses heirs et ayant-cause, les deux arpens de terre qu'il avait dans le bas de la longue vue de l'arramié qui tient par en bas à la terre du dit sieur acquéreur et par en haut à celle du Sieur Noël Materne. Les mêmes deux arpens de terre qu'il avait acheté du Sieur Jacques Materne par un acte de vente pardevant nous le vingt deuxième jour du mois d'Octobre de l'année dernier. Sur la dite terre il n'y à aucun édifice quelconque que quelques clotures planties en barrieres. La dite vente ou cession faite moyennant la somme de cinq cent vingt cinq piastres gourdes Mexicaines qui ont été payées comptant, comptées par le dit sieur acquéreur au dit sieur vendeur qui s'est déssaisi de tous les droits de propriété qu'il pouvait avoir sur la susdite terre y mentionnée, pour les transmettre au dit Sieur Antoine Trégre qui l'a accepté en sa faveur pour pouvoir en jouir à l'avenir lui et les siens comme d'un bien à lui appartenant, se tenant content pour l'avoir vu, visité et reçu; obligeant, &c., renonçant, &c.

Fait et passé les susdits jour, mois et an que des autre part. Nta. Le Sieur Pierre Materne nous a déclaré ne savoir ni lire ni écrire, et a fait marque ordinaire en présence des ci-devant temoins qui ont signé avec le dit Sieur Antoine Trégre et nous commandant qui donne foi. Ainsi signé en la minute de la présente.

Marque ordinaire de PIERRE MATERNE,
ANTOINE TREGRE,
JN. DUHART,
MICHEL SIMON, et
MICHEL CANTRELLE.

Délivré la présente copie conforme à l'original resté déposé dans les archives de ce compté d'Acadie, Paroisse Saint Jacques, le vingt quatre Décembre mil huit cent six, et de l'independance des Etats Unis d'Amérique la trente unième année.

(Signé) MICHEL CANTRELLE.

No. 36.

Exchange of land between John Berry and Antoine Trégre.

Aujourd'hui le tresième jour du mois de Juin mil huit cent, à neuf heures du matin, serait comparu en sa personne pardevant nous Dn. Michel Cantrelle, lieutenant d'infanterie commandant civil et militaire, y résidant, le Sr. Antoine Trégre habitant de la seconde côte des Allemands, lequel nous aurait déclaré et confessé en présence des Sieurs Bonaventure Godin et Michel Simon, témoins d'assistance requis, soussignés, d'avoir fait l'échange suivant avec le Sieur Jeanne Berry qui est que ce premier change à ce dernier, les deux arpens de terre qu'il a dans cette jurisdiction qui tiennent par en bas à l'habitation de feu Philippe Panqueme et par en haut à celle du Sieur Jacques Materne, la même qu'il avait achetée de

ce dernier par un acte de vente passé pardevant nous le seizième jour du mois de Mai, mil sept cent quatrevingt dix sept, pour les deux arpens de face qu'avait achetés le dit Sieur Jean Berry du Sieur Charles Pecon, par un acte de vente passé pardevant nous le onzième jour du mois d'Octobre de l'année derniere mil sept cent quatrevingt dix neuf, moyennant que le dit Sieur Jean Barry lui a donné en retour du dit échange une somme de cinquante piastres gourdes comptant compté. Et au moyen de quoi ils se sont rétrocédes de l'un à l'autre réciproquement leurs titres de propriété pour pouvoir en jouir l'un et l'autre mutuellement comme d'un bien à eux appartenant, se tenant contents pour les avoir vus, visités et reçus.

Fait et passé les susdits jour, mois et an que des autre part, en présence des ci-devant témoins que ont signé avec les parties contractantes et nous commandant qui donne foi.

Ainsi signé en la minute de la présente:

ANTOINE TREGRE,
JEAN BERY,
MICHEL SIMON,
BONAVENTURE GAUDIN, et
MICHEL CANTRELLE.

Délivré la présente copie conforme à l'original resté déposé dans les archives de ce compté d'Acadie paroisse St. Jacques le vingt quatre Décembre mil huit cent six, et de l'independance des Etats Unis d'Amérique la trente deuxième année.

(Signé) MICHEL CANTRELLE.

No. 39.

Vente de propriété Jh. Soniat Dufossat, junr. à Jno. McDonogh.

Aujourd'hui le trente unième jour du mois de Mars de l'année mil huit cent trente six, et la soixantième de l'independance des Etats Unis d'Amérique. Pardevant Louis T. Caire, notaire public dans et pour la ville et paroisse de la Nouvelle Orleans, dûment commissioné et assermenté, et en présence des témoins ci-après nommés et soussignés.

Furent présents.

Mr. Joseph Soniat Dufossat, junr., demeurant en cette paroisse, et Mr. Jno. McDonogh demeur paroisse d'Orleans, etant ce jour en la ville de la Nouvelle Orleans.

Lesquels pour plus de clarté de la vente qu'ils vont réaliser par ces présentes ont d'abord exposé ce qui suit:

Feue dame Catherine Delille veuve de Mr. Barthelemy Macnemara avait recueilli dans la succession de son père, la terre plus particuliérement ci après décrite située dans l'Etat de la Louisiane.

La dite dame veuve Macnemara décedée à Rouen, royaume de France, avait fait un testament olographe en date à Rouen du huit

Août mil huit cent quinze, par lequel elle a institué pour son legataire universel le Sr. Joseph Soniat Dufossat ainé son neveu, lieutenant de cavalerie au service du roi de France.

Ce testament a été après le décés de la dite dame veuve Macnemara revêtu de toutes les formalités voulues par les lois pour qu'il put être mis à éxécution.

Ainsi le dit Sieur Joseph Soniat Dufossat ainsi comme légataire de la dite dame veuve Macnémara a recueilli dans sa succession la terre sus dite dont elle etait proprietaire.

Un double du dit testament qui s'est trouvé dans les papiers du dit Sieur Joseph Dufossat ainé et que le dit Sieur Joseph Soniat Dufossat représente, est demeuré ci-annexé après qu'il lá en signé ne varietur en présence du notaire et des témoins soussignés.

Le dit Sieur Dufossat aine avait fait lui même un testament olographe, en date, à la Nouvelle Orléans, du treize Juillet, mil huit cent vingt trois, par lequel il a institué pour son légataire universel le dit Sieur Dufossat, junr., son frère.

Après son décés arrivé dans le courant de l'année derniere son dit testament a été présenté, ouvert, constaté et prouvé p'devant le juge de la cour des preuves dans et pour la paroisse St. Tammany, Etat de la Louisiane, dans le courant du mois d'Octobre de la même année, et est resté déposé au greffe de la dite cour.

Le dit feu Sieur Dufossat ainé ayant laissé au nombre de ses héritiers le Sieur Joseph Soniat Dufossat son père, celui-ci comme son héritier forcé aurait pu, en réclamant la part qui lui appartenait en cette qualité, empêcher l'exécution intégrale de la dite institution universelle ; mais le dit Sieur Dufossat père a abdiqué la dite succession et a renoncé en faveur du Sieur Dufossat, junior, à son droit d'heritier forcé du dit feu Sieur Dufossat ainé, le tout suivant qu'il resulte d'un acte reçu par le dit Caire, notaire soussigné, le huit Fevrier dernier.

Par ce même acte le dit Sieur Dufossat père stipulant pour son fils Theodore Dufossat, mineur, et comme autorisé spécialement à cet effet par ordre de la cour des preuves dans et pour la paroisse Jefferson, en date du cinq Fevrier dernier, rendu sur une délibération d'assemblie de la famille énoncie au dit acte, a renoncé pour le dit mineur Theodore Soniat à la succession du dit feu Sr. Dufossat ainé dont il etait habile à se porter heritier en partie.

Par ce même acte encore les Sieurs Pierre Soniat, Valmont Soniat, Edmond Soniat, Melancy Soniat, et Gustave Soniat, et dame Adine Charlotte Soniat, épouse autorisée de Mr. Hyacinthe Hardy Beauséjour de Boisblanc, tous habiles à se porter heritiers aussi en partie du dit feu Sieur Dufossat ainé leur frère, et seuls habiles à lui succéder avec le dit Sieur Dufossat père, le dit mineur Theodore Soniat, et le dit Dufossat, junior, comparant chacun pour les parts et portions fixées par le dit acte, ont renoncé purement et simplement à la succession du dit Sieur Dufossat ainé.

En sorte que le dit Sr. Dufossat, junior, comparant, se trouve actuellement avoir le seul droit à la succession du dit feu Sieur Du-

fossat ainé son frère, dont il est le seul representant, soit comme son légataire universel d'après son testament ci-dessus relaté, soit comme resté son seul et unique héritier, d'après la renonciation qui a été faite à la succession par tous les cohéritiers du dit feu Sieur Soniat ainé suivant l'acte ci-dessus daté et énoncé, et un autre acte qui s'y trouve daté et énoncé.

Cet exposé fait, les comparans vont réaliser la vente convenue entre eux.

En conséquence le dit Sieur Joseph Soniat Dufossat, junr., comparant, a par ces présentes vendu, cédé, quitté, délaissé et abandonné dès maintenant et à toujours, mais sous la simple garantie de ses faits et promesses seulement et sans que pour ce qui ne proviendrait pas de ses faits personnels il puisse être éxércé aucun recours ni fait ancune répétition contre lui, sous tel pretexte, à tel titre et pour telle cause que ce soit.

Au dit Sieur John McDonogh, ce acceptant, acquereur pour lui ses heritiers et ayans-cause.

Le tiers indivis d'une terre située dans l'Etat de la Louisiane à seize lieues de distance de la ville de la Nouvelle Orléans, sur la même rive du fleuve Mississippi ; la dite terre sise derriere l'habitation dernierement appelée habitation Fontenan, laquelle habitation ayant sept au huit arpens plus ou moins de face au fleuve sur quarante arpens de profondeur, a été vendue de son vivant par la dite feue dame Macnemara à Fonteneau, en sorte que la terre qui fait l'objet des présentes est à prendre à quarante arpens du fleuve Mississippi et joint d'un côté á la dite habitation Fonteneau, dans la partie supérieure à l'habitation de Madame Fortin et s'etend ensuite jusqu'au lac Maurepas, les lignes ouvrant dans la profondeur ; ensemble le tiers indivis de tous les droits et priviléges circonstances et dépendances de la dite terre sans aucune exception ni reserve.

Ainsi que le dit tiers appartient au dit sieur Dufossat, junr. lequel met pour ce tiers le sr. McDonogh dans tous ses droits sans exception, pour qu'il les exerce en son lieu et place, et comme il aurait pu faire lui même, mais sans aucune guarantie ni recours contre lui ainsi qu'il a été dit ci-dessus.

Le dit sr. Dufossat, junr. est propriétaire de la dite terre dont le tiers indivis est par lui vendu au dit sieur McDonogh en sa double qualitié de légataire universel et de seul heritier du dit feu sieur Joseph Soniat Dufossat ainé son frére ainsi qu'il a été ci-dessus établi.

Le dit sieur McDonogh a déclaré connâitre le droit de propriété de la dite dame veuve Macnémara et de son auteur, á la dite terre, et n'a pas désiré qu'il fut fait ici aucun détail à ce sujet.

Pour par le dit sr. McDonogh, les heritiers et ayans-causes, jouir, faire et disposer du tiers indivis de la dite terre en pleine et toute propriété à compter de ce jour.

La présente vente est fait moyennant la somme de mille piastres que le dit sieur Soniat vendeur reconnait avoir reçue du dit sieur

McDonogh en espéces ayant cours de monnaie délivrées hors de la vue du notaire et des témoins soussignés dont quittance pure et simple.

Attendu ce paiement le dit Sieur Dufossat vendeur met et subroge le dit Sieur McDonogh dans tous les droits de propriété et autres qu'il a et peut avoir pour le tiers de la dite terre, même dans tous les droits de recours en garantie et actions quelconques qu'à ce sujet il a ou pourrait avoir à exercer contre qui, à tel titre et pour telle cause que ce soit, se d'éssaisissant de tous les dits droits et actions sans exception, en faveur du dit Sr. McDonogh, voulant qu'il en soit saisi et qu'il puisse en user et disposer en son lieu et place et comme il aurait pu faire lui même ainsi que de chose lui appartenant au moyen des présentes.

Les dits comparans ont déclaré qu'ils ne pouvaient pas représenter le certificat du bureau des hypothéques dans l'arrondissement où est située la dite terre, mais qu'ils déchargeaient le dit Caire notaire public soussigné de tout responsabilité que la loi pouvait lui émposer relativement à la représentation du dit certificat et que même ils s'obligeaient solidairement de le garantér de tout évenément à ce sujet.

Le dit Sieur Dufossat, vendeur, déclare :

1o. Qu'il a été marié en premières noces avec dame Adeláide Doriocourt décedée son épouse et qui a laissé pour seule héritier Dem'lle Felicité Soniat Dufossat mineure dont il a été tuteur, mais que suivant un acte reçu par Gustave Le Gardeur notaire en cette ville le trois Octobre mil huit cent trente cinq il a rendu son compte de tutelle à sa dite fille, lors épouse de Sr. Adolphe Charbounet et de lui autorisée, et que par ce même acte il a payé à la dite Dame Charbounet ce qui lui revenait pour le reliquat du dit compte, et que par suite elle a fait main levée de toutes hypothéques qui pouvaient resulter contre lui de la dite tutelle dont il a été déchargé.

2o. Qu'à l'exception de la tutelle de sa fille susnommée il n'a été chargé de la tutelle ni de la curatelle d'aucuns mineurs, interdits ni absents.

3o. Et qu'il a épousé en secondes noces Dame Celestine Génois la quelle va intervenir aux présentes pour les approuver et renoncer en faveur du Sieur John McDonogh aux droits matrimoniaux, dotaux, paraphernaux ou autres et à toute hypothéque qu'elle a ou pourrait avoir à exercer sur le tiers indivis qui lui est vendu dans la dite terre.

A ce faire est intervenue Dame Celestine Génois épouse du dit Sieur Joseph Soniat, demeurant avec lui et de lui dûment et spécialement autorisée la quelle, après lecture à elle faite par le notaire soussigné de ce qui précède, a dit y donner son consentement et l'approuver dans tout son contenu. Et la dite Dame Dufossat ayant deplus déclaré qu'elle etait dans l'intention de renoncer à tous les droits, actions, priviléges et hypothéques qu'elle peut ou pourrait avoir à exercer sur le tiers indivis de la dite terre objet des

présentes, le notaire soussigné lui a observé qu'avant de recevoir sa signature aux présentes, il désire l'informer de la nature de ses droits et de l'effet de sa renonciation, sur quoi le dit notaire lui a dit: 1o. Que les lois de cet Etat de la Louisiane accordent à une femme mariée une hypothéque générale tacite sur tous les biens de son mari et même sur ceux de la communauté; 1o. pour la restitution de sa dot, ou pour le remploi des biens dotaux qu'elle a apportés lors de son mariage, et ce à compter de la célébration du dit mariage; 2o, pour la restitution ou le remploi des biens dotaux qu'elle aurait acquis durant son mariage, soit par succession ou donation, et ce du jour où la succession s'est ouverte en sa faveur ou que la donation a en son effet.

3o. Pour l'indemnité des dettes qu'elle aurait contractées avec son mari, ainsi que pour le remploi de ses biens propres aliénés, du jour de l'obligation ou de la vente.

4o. Pour sureté des obligations imposées au mari dans le cas ou il aurait joui des biens paraphernaux de sa femme, ou pour le remboursement de leur prix dans le cas où ils auraient été aliénés par sa femme, et qu'il en aurait reçu le prix ou en aurait autrement profité.

Et enfin qu'en renonçant aux droits susmentionnés elle perd dès maintenant et à toujours la faculté de revenir contre le présent acte par elle même, ou par toute autre personne.

Et la dite dame Dufossat se reconnaissant parfaitement instruite des droits que la loi lui accorde sur les biens de son mari, et sur ceux de la communanté, a dit et déclaré qu'elle persiste, quelles qu'en soient les conséquences, dans l'intention qu'elle a ci-dessus exprimée, et que de son bon gré et de sa propre et libre volonté, elle renonce formellement par les présentes en faveur du dit sieur acquereur ses heritiers ou ayant-cause, à toute hypothéque inscrite, légale ou tacite et à tous priviléges et autres droits que les lois de cet Etat lui donnent, et peuvent lui donner sur le tiers indivis de la dite terre, objet des présentes.

Dont acte, fait et passé en l'étude à la Nouvelle Orléans, les jour, mois et an que dessus, en présence de Messieurs Charles Darcantel et Philippe Lacoste, témoins à ce requis et domiciliés en cette ville, lesquels ont signé avec les parties et moi notaire, après lecture faite.

(Signé) JOSEPH SONIAT DUFOSSAT,
JOHN McDONOGH,
CELESTINE SONIAT,
CHARLES DARCANTEL,
PHI. LACOSTE,
LOUIS T. CAIRE, *Not. Pub.*

Pour copie conforme à l'original resté en mon étude pour recours. En foi de quoi j'ai signé les présentes, et y ai apposé le sceau de mon office à la Nouvelle Orléans, le cinq Avril, mil huit cent trente

six; (1) hors la présence de son mari; (2) à ses droits matrimoniaux, dotaux, paraphernaux, et ces renvois approuvés.

[L. s.] (Signé) LOUIS T. CAIRE, *Not. Pub.*

Collationnée.

Le controleur des alienations certifie que le présent acte a été enregistré ce jour en son bureau, sur le livre No. 19, folio 137 et 138. Nouvelle Orleans, le six Avril, mil huit cent trente six.

(Signé) REYNES, *Register.*

No. 40.

Je soussignée Catherine Delille, veuve de Mr. Barthelemy Macnémara, demeurant à Rouen, rue Ste. Croix des Pelletiers, No. 76, déclare avoir fait mon testament ainsi qu'il suit: Je donne et légue à Mr. Joseph de Saunhac Dufossat, mon neveu, lieutenant de cavalerie au service de sa Majesté le roi de France, demeurant actuellement à Versailles, toute ma succession tant mobiliaire qu'immobiliaire, à l'effet de quoi je l'institue mon légataire universel à la charge par lui d'acquitter les leg's ci-après. Je donne et légue à Mademoiselle Nunan Ocarel, une rente viagère de huit cents francs, exempte de toute imposition, payable à partir de mon décès, de six mois en six mois jusqu'à décès de la dite demoiselle, lors du quel elle demeurera eteinte et le prorata alors encouru sera au profit de mon legataire universel. Je donne et légue à Lapierre Dupouzaz, mon domestique, une rente viagère de huit cents francs, exempte de toute imposition, payable de la même manière et avec la même condition que celle exprimée ci-dessus, à l'égard de M'lle Ocaroll. Je lui donne deplus sa chambre et six paires de draps, et la grande armoire de chêne qui est dans la cuisine à la campagne. Je donne et légue à Marianne, ma cuisiniere, femme de Noger, une rente viagère de huit cents francs, exempte de toute imposition, payable de la même manière et avec la même condition que celle exprimée ci-dessus, à l'égard de Mademoiselle Ocarol. Je donne deplus à Marianne, ma cuisinière, femme de Noger, en propriété le lit dans lequel elle couche dans ma chambre à Rouen, contenant un tour d'Indienne, courtepointe couverture de laine, un traversain, deux matelas laine, un lit di plume, un sommier, la couche, six paires de draps de domestique. Je nomme pour mon éxécuteur de mon présent testament, Mr. Ferdinand Macaclin, mon ami, demeurant rue du Champ Mallion, No. 21 à Rouen, et je prie Mr. Saunhac, mon neveu et mon legataire universel, d'offrir une bagne ou l'équivalent de six cents francs à notre ami commun Mr. Macaclen.

Je désire être enterrée simplement mais décemment.

Rouen ce huit Août mil huit cent quinze.

(Signé) CATHERINE DELILLE,
Veuve Macnemara.

Callationnée.

Pour copie conforme à l'original annexé à un acte à mon rapport en date du trente un Mars dix huit cent trente six.

En foi de quoi j'ai signé ces présentes et y ai apposé le sceau de mon office à la Nouvelle Orleans, le deux Avril mil huit cent trente neuf.

[L. S.] (Signé) LOUIS T. CAIRE, *Not. Pub.*

No. 41.

Title deed of Madam Macnemara to H. Fontenot, of 7 arpens in front on the river, by 40 deep.

LAND OFFICE, *Eastern District of Louisiana:*

Pardevant nous Maurice O'Connor lieutenant d'infanterie, commandant et juge de la paroisse St. Jean Baptiste, y résidant, est comparue en personne Madame Delille Macnemara demeurant à la Nouvelle Orleans, laquelle nous a déclaré et confessé en présence des Sieurs Adam et Balthazar Vicner, habitans demeurant dans la dite paroisse de St. Jean Baptiste des Allemands, avoir cejourd'hui, vendu, cédé, quitté, transporté et délaissé de maintenant et à toujours, une terre consistant de sept arpens de face sur la profondeur ordinaire, franche et quitte de toutes dettes, hypothèques et autres empêchemens généralement quelconques, attenant d'un coté par en bas à Gabriel Cloutier, et par en haut à la terre de Monsieur Arnould, environ dix huit lieues de la Nouvelle Orléans, dans la paroisse de St. Jean Baptiste des Allemands, sur la rive droite du fleuve en montant, à Henry Fonteneau à ce présent et acceptant, acquéreur, pour prix et somme de sept cents piastres qu'il a promis de payer à la dite dame en deux termes, à savoir; six cents piastres dans le courant de l'année mil sept cent quatrevingt cinq, et les cent piastres restantes dans le courant de l'année mil sept cent quatrevingt six, le Sieur Dupare se rend caution pour le paiement de la dite somme et este tenu de payer à son défaut.

Le dit acquéreur affecte et hypothéque tous ses biens meubles et immeubles, présens et à venir, ainsi que la dite terre qui ne pourra être vendue et échangée jusqu'au parfait paiement de la dite dame. En conséquence la dite dame venderesse a abandonné au dit acquéreur tous ses droits de propriété, noms, raison et actions sur la dite propriété pour en jouir dès à present comme d'un bien à lui appartenant en propre; la dite dame se réserve s'il se trouve plus que les sept arpens, le dit sieur acquéreur s'oblige de la payer à raison de cent piastres l'arpent, car ainsi sont convenus, promettant, &c., obligeant, &c.

Fait et passé aux Allemands en notre étude, cejourd'hui quatorze Décembre mil sept cent quatrevingt quatre au matin.

Les parties interessées, le Sieur Dupare, et les témoins ont signé avec nous après lecture faite.

(Signé) MAURICE O'CONOR.

Livré la présente expédition conforme à l'original ce premier Avril mil sept cent quatrevingt cinq à Henry Fontenot.

Pour acquit le 5 Fevrier, 1787.

(Signé) DELILLE MACNEMARA.

REGISTER'S OFFICE, *New Orleans:*

I, P. A. St. Martin, register of the land office at New Orleans, do hereby certify the foregoing document, being part of the evidence filed in this office in support of the claim of Henry Fontenot, No. 57, to be a true copy taken from one of the records of this office, entitled "Register F, book 6;" which said record is now in my possession, and forms part of the archives of this office.

In faith whereof I hereunto subscribe my name, this 1st day of April, 1839.

(Signed) P. A. ST. MARTIN, *Register.*

No. 46.

LAND OFFICE, *Eastern District of Louisiana:*

I, P. A. St. Martin, register of the land office at New Orleans, do hereby certify that, by inspection of the township maps on file in this office, it appears that the township plats of township No. nine, south of range No. (5) five east, and of township No. nine, south of range No. six, lying on the east side of the Mississippi river, have not yet been returned to this office. The foregoing townships lie immediately to the rear and adjacent to township ten, range five, and township ten, range six.

In faith whereof I hereunto subscribe my name, this 5th day of April, 1839.

(Signed) P. A. ST. MARTIN, *Register.*

Certified copy of Harper's report in favor of John McDonogh & Co.

No. 406. John McDonogh & Co. claim a tract of land situate in the county of Acadia, on the east shore of the river Mississippi, sixteen leagues above New Orleans, containing thirty-two arpens front, with a depth extending as far as lake Maurepas.

This tract of land has formerly been claimed before the board of commissioners, and the depth extending beyond forty acres rejected by them for want of evidence of title, but the claimant has since claimed a complete French title for the whole quantity claimed, in favor of Pierre Delille Dupard, (under whom he claims.) Dated the third day of April, 1769.

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, 12th April, 1839.

The above is a true copy from page 3 of the record book in this office, of the reports of the register and receiver of the southeastern district of Louisiana, which was confirmed by act of Congress, approved 11th May, 1820.

(Signed) H. T. WILLIAMS,
Surveyor General, La.

Documents No. 2.

UNITED STATES OF AMERICA, *State of Louisiana:*

Be it remembered, that on this seventeenth day of February, in the year of our Lord one thousand eight hundred and thirty-six, and the sixtieth year of the independence of the United States of America, personally came and appeared John Conway, residing in the parish of Ascension, who declared that he had this day sold and conveyed, and by these presents does sell and convey, to A. F. Righter, here present and accepting the present sale for himself, his heirs, and assigns, all the right, title, claim, and interest and demand of every kind and nature soever, which the said John Conway has to a certain tract or parcel of land, being, lying, and situate in the parish of Ascension, on the left bank of the river Mississippi, immediately in the rear of a tract of land sold by this vendor to Augustus S. Phelps, by authentic act passed before me, notary, on the twenty-second day of July, in the year of our Lord one thousand eight hundred and thirty-five. The tract of land to which the right, title, and interest of this appearer is now sold, is a portion of the upper fourth of the Houmas' grant granted by the Spanish Government to Maurice Conway in the year seventeen hundred and seventy-seven, (15th June,) and by the said Conway sold to William Conway, by authentic act of sale passed before Antoine Fernando Rodriguez, a notary at the city of New Orleans, on the twentieth day of October, in the year one thousand seven hundred and eighty-six, and extends between lines diverging fifteen degrees from the back lines of Phelps' land, at the distance of one hundred and twenty arpens from the river Mississippi; and which lines, when produced to the river Mississippi, give a front of about six arpens, the side lines of the whole tract extending to the river Amite.

This appearer derives his title to the land now sold from his father William Conway, by donation, both inter vivos and mortis causa, as will fully appear by acts of record in the office of the parish judge of the parish of Ascension.

It is expressly understood, covenanted, and agreed between the parties to this act, that the vendor, John Conway, assumes no obligation whatever of warranty to the said land, but only conveys his right, title, and interest to the land above described, such as it is.

The present sale is made and concluded for and in consideration of the sum of seven thousand dollars, payable on the thirtieth day of March next, 1836; to represent which sum the vendee, Abraham F. Righter, has delivered to the vendor his promissory note bearing the date of this act, and endorsed to the satisfaction of the vendor.

No certificate of mortgage from the recorder of this parish having been presented to me, the notary, the parties have agreed to waive this formality of law, and to exonerate me, the notary public, for passing said act without the production of said certificate.

Thus done and passed at the parish of Ascension, on the day, month, and year before written, in presence of François Mollere

and Robert N. Kelly, witnesses of the age required by law, and residing in said parish, who have signed the present act with the parties, and me the notary public.

Original act is signed,

JOHN CONWAY,
A. F. RIGHTER,
F. MOLLERE,
ROB. N. KELLY,
JOHN H. ILSLEY,
Notary Public.

I, the aforesaid notary public, do hereby [certify] that the foregoing is a true and collated copy of the original act of sale on record at my office.

In testimony whereof, I grant these presents under my signature, and the impress of my seal of office, at the parish of Ascen-
[L. S.] sion, the eighteenth day of the month of February, anno domini one thousand eight hundred and thirty-six.

(Signed) JOHN H. ILSLEY,
Notary Public.

I certify that I have recorded the above copy of an act of sale in register of notarial acts No. 13, pages 55 and 56.

In faith whereof I have hereunto set my hand, and affixed my seal of office, at the parish of Ascension, State of Louisiana,
[L. S.] on this 25th day of February, eighteen hundred and thirty-six.

(Signed) EDWARD DUFFEL,
Judge and notary public.

No. 3.

Mortgage, William Conway to Juan Joyce.

Hypot'ca.—Sepase que yo Dn. Guillermo Conway, vecino y habitante de esta ciudad digo:

Que habiendose constituido por mi fiador Dn. Juan Joyce, para responder por cuatro mil tres cientos tres pesos y alguinos reales, que los vienes del defunto Dn. Mauricio Conway, mi tio, de quien soy albacen y heredero, deben satisfacer a Dn. Alexandro Baudin, como fiador que fué el Dn. Olivermo Pillock, con quien ha seguido Pleito sobre cantidad de pesos daños perjuicios y castos procedentes, del entre-dicho que le puro de sus bienes y en el conde remitante à la succession del citado Conway, conque satisfacer à Baudin el descerbiento enque se haja segun consta de la que otra entres del corriente ante el presente escribano y à que me remito. Con cuyo motivo el citado Joyce, cuando parag'd con hipotheca le asegurare algunos bienes mios a fin de responderle con ellas á cansemillar de la franza (esprimentar) que pudiero esprimentar durante en ella; y considerando su justa solicitud otorgo por la

presente y como mas haja lugar que al intento pretendido por el mismo Dn. Juan Joyce hipoteco à su favor y para su resguardo, una habitacion de mi propriedad situada en la costa de Acadianos y payes de Houmas, veinte y cinco leguas distante de esta ciudad, de treinta arpanes de frente y el fundo hasta el lago, que compre, habra trece años al enunciado mi tio, en el oficio de Dn. Pedro Pedesclaux y los negros: Naas de treinta y dos años, Juan, Louis, Estor, Bob, Cæsar, Alexander, Lock; las negras Nancy, Marianna, Marianna, Pollock, Francisca, y Suisen; todo libre de gravamen e hipotheca, y prometo no vendarlo ni enagenarlo pendente esta escritura, lo contrario ne valgo o sera nulo, y no pase derecho a tercero ni otra poder q'l prejudique el q'l por esta escritura le conferido al nominado Joyce.

Y a la firme yo obligado mi persona y bienes habidos y p'a haber con clausula guarentifia contrato, y con todo poderio y sumicion se pusiera y renunciacion de leyes en my favor con la general, en forma que lo prohibe.

En cujo testimonio es fecha en esta ciudad de la Nueva Orleans, a siete de N'bre, de mil sette cientos novienta y ocho, yo escribano do fé conozco el otorgante que firmo siendo testigos, Dn. Luis Molere, Dn. Andres Fernandez, y Dn. Felipe Gwenault, presentes.

WM. CONWAY.

Ante mi, CARLOS XIMENEZ.

Es conforme à su original que para y quedo en mi poder y archivo a que me remito, y a pedim'to de parte doi el presente en esta ciudad de la Nueva Orleans, a once de Abril, de mil siete cientos novento y ocho años.

(Signed) CARLOS XIMENEZ.

Certifico y doi fé quedar annula la hipoteca contenida en este testimonio en mi oficio publico, en el libre que serve a este efecto a foros noventa y tres, vuelta y signe á la noventa y cuatro.

Nueva Orleans, once de Abril, de mil siete cientos noveinte y ocho.

(Signed) PEDRO PEDESCLAUX.

No. 4.

Extract from the will of William Conway, showing the partition of his lands at Houmas between his children.

In the name of God, amen. I, William Conway, of the county Acadia, and territory of Orleans, being of sound disposing mind and memory, do ordain and publish this my last will and testament, in the manner following, viz:

I order that my body be decently interred, according to the rites and forms of the Roman Catholic church. That, after the payment of my funeral expenses, and all my other debts, I make the follow-

ing disposition of all my property, real and personal, of which I may be seized and possessed.

Item.—I give and bequeath to my son, John Conway, six arpens in front, being part of my plantation at the Houmas, on which I now reside, adjoining lands I sold to Daniel Clark, esq., with all the depth I have a right to, with a proportional opening according to the plan of said plantation, to have and to hold the same to him and his heirs for ever.

Item.—I give and bequeath to my son, James Conway, six arpens in front of the above described plantation at the Houmas, together with all the depth which I have a right to; which land is bounded and described as follows: the lower line adjoining to Simon Lanaux' plantation, on the upper by two posts planted by William Mariner, and all other lands below the lower line of my said plantation, to him the said Conway; to have and to hold the same to him, his heirs and assigns for ever.

Item.—I give and bequeath unto my two daughters, Mary and Betsey Conway, all the residue of my said plantation at the Houmas; to have and to hold the same to them, their heirs and assigns for ever—Betsy Conway to take her moiety of the said bequest from lands adjoining those of my son, James Conway.

I name executors to this my last will and testament, my wife Elizabeth Conway, my son John Conway, James Mather, jun'r, and William Wykoff, jun'r, hereby revoking all wills and testaments by me at any time heretofore made.

In testimony whereof, I have hereunto set my hand and seal, this fourteenth day of April, in the year of our Lord one thousand eight hundred and seven.

(Signed) WILLIAM CONWAY. [L. S.]

Signed, sealed, published, as the last will and testament of William Conway, in the presence of each of us:

A. L. DUNCAN,
JAS. MATHER, Sen'r,
GEORGE MATHER, Jun'r.

Paraphé "Ne varietur."

(Signed) CARLIER D'OUTREMER, *Judge.*

Proof of the above will, made 23d March, 1812.

Proof [of] the above written will of William Conway, deceased.

Personally appeared before me, Philippe Carlier D'Outremer, judge of the parish of Ascension, on the twenty-third of this present month of March, A. L. Duncan, resident of New Orleans, and on the twentieth day of said month of March, George Mather, junr., resident in East Baton Rouge, territory of Orleans, who, upon their oaths declared, that they were present at the signing of the above will, and recognised their several signatures affixed to the same.

(Signed) CARLIER DOUTREMER,
Judge of the Parish of Ascension.

A true extract from the original on file in the archives of the parish of Ascension, State of Louisiana.

In witness whereof, I hereunto sign my name, and affix my seal of office, at the parish of Ascension, State of Louisiana, the sixth day of May, anno domini one thousand eight hundred and thirty-six.

[L. S.] (Signed) EDWARD DUFFEL.
Parish Judge, ex officio Judge of Probates.

No. 5.

No. 125.] LAND OFFICE, *Eastern District of Louisiana.*

William Conway claims a tract of land situate in the county of Acadia, at a place called Houmas, on the left bank of the Mississippi, containing twenty-two and a half arpens in front, with an opening towards the rear of sixty degrees forty-five minutes, the upper line running N. 9° 15′ E., three hundred and fifty-one arpens, and the lower line directed N. 70° E., and measuring four hundred and fifty-five arpens; bounded on the upper side by Daniel Clark's land, and on the lower by land of Simon Lanaux.

It appearing to the board, from a patent or complete title exhibited, that seventeen arpens of front, were together with a greater quantity, granted by the Spanish Government to Maurice Conway, 21st June, 1777; and it appearing that the five and a half arpens of front, remaining of the land aforesaid, were purchased by Pierre Part, at the public sale of the estate of the late Joachim Miro, (alias Belony,) on the 7th day of December, 1788; and it further appearing to the board, from two several instruments of conveyance offered in testimony, that the two tracts of land aforesaid have been conveyed to the present claimant, the board do hereby confirm his claim aforesaid.

REGISTER'S OFFICE, NEW ORLEANS.

I, B. Z. Canonge, register of the land office at New Orleans, do hereby certify the foregoing to be a true copy of the decision of the board of commissioners for the eastern district of the late territory of Orleans, on the claim of Wm. Conway, No. 125, as taken from the "Decisions on Land Claims" of said board, on record in this office.

In faith whereof, I hereunto subscribe my name, this 11th day of May, 1836.

(Signed) B. Z. CANONGE, *Reg'r.*

No. 6.

A copy of titles of land sold by Mr. Maurice Conway to his nephew William Conway.

Sepan cuantos esta carta sieren como yo Dn. Mauricio Conway vecino de esta ciudad otorgo que vendo realmente y con efecto a

Dn. Guillermo Conway de este mismo vecendario, una habitacion mia propria situada en el paraje que llaman La Fourche, compuesta de veinte y siete arpanes de tierra de frente poco mas o menos, con la profundidad segun el titulo de concesion que me dio el Exmo. Señor Conde de Galves por su decreto de f'ha veinte y uno de Junio del aña el mil sett setenta y siete d'ha tierra lindando por un lado, con tierras de Dn. Patricio Conway y por el otro con otras a M. Henderson, la misma que me pertenece por haber la comprada, con mayor porcion de Dn. Barthelemy Mągnemara por escritura por antes Dn. Andres Almonaster y Roxas en'a pub'co que fue a esta ciud'd con f'cha quatro de Enero del año de mil sete cientos sententa y seis. Asi mismo le vendo en el mismo parasse, ocho arpanes de tierra de frente y cuarenta de fondo lindando por un lado con tierras de Me. Egnif y por el otro con otras tierras que pertenecian antiguamente a Dn. Patricio Conway la misma que me pertenece por haberla comprada con mayor porcion de Pedro Landry y de sus dos hijos Pablo y Firmin Landry por escritura ortorgada por ante Dn. Luis Judis, commandante de d'ho paraje dies y ocho de Octubre del año pasado de mil set sententa y seis y se las vendo ab ante dicho con todas sus entradas y solidas usas costumbres derechos y servidumbres libre de gravamen é hipotecas como lo certifico yo el presente esno. anotador de ellas en precio de seis cientos ps. que le recibido de contado y por no ser de presente la entrega renuncio la excep'on de la non numerata pecunia y otorgo formal recibo mediante locual me aparto y separo del dro de propriedad posecion me dominio y señorio que ha dicho treinte y cinco arpanes a tierra habia y tenia y todo los cedo renuncio y traspaso en el comprador, y enquien su causa y d'rô hubiere para que como suyos proprios los pose a venda. Combrie ò enagene a su voluntad en virtud de esta escritura, que a su favor otorgo en señal el real entrega, con lo que ha de ser visto haber adquirido su posecion sin que necesite de otra prueva de que lo relevo y me obligo a la ericon seguridad y sanamiento del esta venta en toda forma del d'ho con mis bienes havidos y for haber. Doi aqui por sucessa la el clausula guarantissia y renuncio las leges à mi favor, con la gr'al que lo prohibe y estando presente al otorgamiento de esta escritura yo el referido Dn. Guillemo Conway la acepto à mi favor recibiendo comprado dichos treinta y cinco arpanes de tierra en la cantidad y conformimar que me van vendidas de ellas me doi por entregado à mi voluntad y otorga por mal recivo. En cuyo testimonio es f'ha la carta en la ciud'd de la Nueva Orleans a veinte y siete de Octubre a mil sett's ochenta y seis años y las otorgantes a quien's yo el en'o doi fe conozco lo firmaron siendo testigos Dn. Joseph Anduiano de la Place, Dn. Luis Lallande Dapremond, y Dn. Salomon Malines vecn's de esta ciudad presentes.

MAURICE CONWAY,
WILL'M. CONWAY.

Ante mi, FERNANDO RODRIGUEZ, *Eno.*

Concuerda con su ori'gl. que paso por autre Dn. Fernando Rodriguez Eno. Publo. que fue de esta ciudad y que da en mi poder y archivo a que me remito y de pedimto. de parte doi esta en la ciudad de la Nueva Orleans a veinte de Octubre de mil Septs. noventa y dos.

Ou. 1-2 a.

(Signed,) PEDRO PEDESCLAUX, *Eno. Pubco.*

No. 7.

B. Magnemara to Maurice Conway.

Sepase cuantos esta carta sieren como yo Don Bartmo. Magnemara a vecino de esta ciudad Digo que Don Mauricio Conway y Don Alexandro Latil de este vecindario compraron al Jefe de las Indias de la nacion Bayagoula y Houma nombrado cola jabe por cecion que les cieron por escritura que paso ante mi el hicinco de Octubre del año pasado de mil sets. sententa y cuatro un pedaro de tierra de mas de media legua distante de esta ciudad veinte y dos leguas de este lado del rio arriba lindando por un lado con tierras de un Acadiano viejo nombrado Pedro, y por otro con tierras de Juan el Henero laqual por valdid la possieron d'has naciones en el tiempo de la Dominacion Francesa con el permiso del gobierno cuya secion y venta fue aprobado por su Señoria el Señor Gobernador g'ral de esta provincia a continuacion de d'ha escriptura y en la seguida de la copia de ella se les libre titulo en forma en primero de Noviembre de d'ho año. Y el d'ho Dn. Alexandro Latil me vendio la parte que le correspondia a excepcion de diez arpanes de frente con el fondo ordinario que reservo para se al extremio de la parte de arriba pr. escriptura que paso ante el presente Escno. a los veinte y tres de Dec'bre. del mismo año y por otra otorgado ante el mismo a los veinte y cinco de Abril del año pasado de mil set'os. settenta y cinco me vendio el expresado Dn. Alexando Latill las d'has diez arpanes de tierra nominados por cuyos dos titulos compre y me pertenece, la parte de tierra que compro al d'ho Jefe de los citados naciones por tanto en la mejor forma que hai a hugar en ora siendo cierto y Lavedor del que en esta caso me compleite pr. los pra'te que vendo realmente y en efecto del d'ho Dn. Mauricio Conway la parte de tierra que compro en compl. con el dicho Dn. Alexandro Latill seg'n. y como le fue cedida y yo le lu comp'do. con todos sus entradas y salidas usas, costumbres d'ros y servidumbres que le tocan y puede tocarle y pertenecerle sin exceptuar ni recitar en mi cosa d'lga. y pr. libre de gravamen o hipotheca como lo he hecho coustar por certificacion del anotador de ellas pr. la cantidad de quiniento sesenta ps. que me ha payado de contado y por no ser la entrega de presente renuncio la exception de la non numerata pecunia y declaro que el justo precio y verdadero valor de d'ho pedaso de tierra son las insignien dos quienintos y sesenta ps. que no vale mas y si mas vale o valiere en adelante de qualquiera porcion que sea de ella.

Hago gracia cesion y donacion para mira perfecta alcabado e irrevocable al d'ho comprador y a las suzas que el derecho llama fecha inter vivos con las incignaciones y renunciaciones de la lei del ordinamiento real fecha en cortes de Alcalde de Genares que hablan en razon de las cosas que se compran venden ó permatan por mas o menos de la mitad de su justo precio y las cuatro años para repetir me gaño o dolo caso que lo haia y dede hoi dia de la fecha par siempre jamas me derapodero desisto a parte del derecho deproprieda, posecion util dominio y señorio que d'ho pedaso de tierra habia y tenia y todo lo cedo, renuncio y traspaso en el comprador para que como alajo mio propria habido y adquerida con derecho de compredo como esta lo es lo pasea venda combre ó enagene à su voluntad en virtud de esta escriptura que a su favor otorgo en señal de posecion titulo vos y recurso y si otra posecion mas en forma le conviniere tomarle pueda hacer judicial o extra judicialmente y en el interien que no la tomare me constituio por su en quileria para se la dar cado que la pida y como real vendidor que soi me obligo à la evicion seguridad y lancamiento de esta vente en bastante forma de derecho y como mas convenya a favor del comprador y con mis bienes habidos ó por haber doi aqui por incerta la clausula garantista y renuncio las leyes de mi favor con la gra'l que lo prohibe en forma y estando presente al otorgamiento de esta escriptura yo el dicho Dn. Mauricio Conway la acepto a mi favor recibiendo por ella comprado dicha pedaso, de tierra en la cantidad de quinientos sesento pesos y confirmidades referidas de el me doi entregado à mi voluntad y otorgo formal recibo. En cuyo testimonio es fecha la carta en la ciudad dela Nueva Orleans a cuatro de Enero de mil setecientos setenta y seis años nos otorgantes a quienes yo el escribano doi fé conosco asi la otorgaron y firmaron, siendo testigos, Fernando Rodriguez, Pedro Carolez y Francisco Liotand, presentes.

(Lo firmaron,) J. MANEMORA.
MAURICE CONWAY.

Ante mi: ANDRES ALMONASTER Y ROXAS, *Eno. Pubco.*

A true copy of the original act deposited in the records of Almonaster, one of my predecessors.

New Orleans, tenth day of May, 1836.

[L. S.] OCTAVE DE ARMAS, *Not. Pub.*

No. 8.

Agreement and confirmation between J. F. Laville and A F. Rightor, and copy of sale by Mad'e Marie Conway, wife of Antoine Morin, to J. F. Laville.

I will sell to A. F. Rightor all my right to the land back of the eighty arpens where I reside, for fifteen thousand dollars, payable five thousand dollars cash, and the balance in two annual instalments, commencing in March, 1837. The said Rightor reserving the right of accepting this offer for thirty days.

To this promise, however, was attached the following conditions: First. That I may find a purchaser for the first tract, who may insist on this right to the back land being sold with it; it might operate so as to prevent the sale, or the creditors who have now seized may consent that the land be sold on one, two, and three years' credit, and may attach, as a condition, that the back land be sold with the front. Therefore, I reserve to myself the right to making such arrangement with the creditors, if such arrangement can be effected, and also the right of selling the back with the front land, if a purchaser can be found between this day and the day of the sheriff's sale, and that they also be included in this reservation.

For the two last payments, the said Rightor to furnish good negotiable paper, payable in one of the banks of N. Orleans.

This proposition is to be understood as allowing to me the right of disposing of the back land by sale, or by arrangement with my creditors, and, in fact, not to interfere with any arrangements I may be able to effect between this time and the day of the sale by the sheriff, that day included. January, 1836.

(Signed) F. LAVILLE,
A. F. RIGHTOR.

ASCENSION, *January 20th*, 1836.

The parties to the within contract have this day confirmed the sale, A. F. Rightor waiving the right of giving a definitive answer on the part as guaranteed to him for the thirty days, and F. Laville withdrawing the conditions under which the closing of the contract on his part was suspended. Therefore, it is now closed, and a notarial sale to be passed when convenient.

(Signed) F. LAVILLE,
A. F. RIGHTOR.

Recorded this day in Register No. 13, pages 8 and 9, of Notarial Acts.

Witness my hand and seal of office, parish of Ascension, February the first, eighteen hundred and thirty-six, by request of Mr. A. F. Rightor.

[L. S] (Signed) EDWARD DUFFEL, *Parish Judge.*

A true copy from the original in deposite in my office, given under my hand and seal, parish of Ascension, this 15th May, 1836.

[L. S.] (Signed) EDWARD DUFFEL, *Parish Judge.*

Pardevant moi, Phillippe Carlier D'Outremer, juge de la paroisse de l'Ascension, dument autorisée à y exercer les fonctions de notaire public est personnellement comparue Madame Marie Conway épouse de Monsieur Antoine Maurin, habitant de cette paroisse, la dite dame duement autorisée de son épouse, à l'effet du présent acte, laquelle à par le présent acte, vendue, transférie et transportie à Monsieur Jean François Laville de la Nouvelle Orléans, une cer-

taine terre ou habitation située dans cette paroisse, lieu dit des Houmas et est borné à la ligne supérieure par une terre du Général Hampton ci-devant la propriété de Mr. John Conway, et à la ligne inférieure par une terre appartenante à Mad'e Lawes, la dite terre ayant cinq arpens vingt toises de face au fleuve, plus ou moins; ouvrant de quinze dégrés plus ou moins, vendue avec la profondeur auquel elle a droit, selon son titre et selon le plan annéxe à la présente vente vendue aussi avec toutes les bâtisses et clotures qui se trouvent dessus. La présente vente fait pour le prix et somme de dix huit mille piastres payable de la manière suivante, savoir: quatre mille cinq cents piastres payable en tout Mars mil huit cent vingt quatre; quatre mille cinq cents piastres payable en tout Mars mil huit cent vingt cinq; quatre mille cinq cents piastres en tout Mars mil huit cent vingt six; quatre mille cinq cents piastres en tout Mars mil huit cent vingt sept. Et pour le montant des deux premiers payemens Monsieur Jn. F'ois Laville remet à Mad'e Maurin deux billets souscrits par lui à l'ordre de Mr. Phillippe Minor de quatre mille cinq cent piastres chaque payable en Mars mil huit cent vingt quatre et Mars mil huit cent vingt cinq et portant mêmes dates que le présent acte, et par moi dit juge, paraphé ne varietur pour en constater l'identité, lesquels dits deux billets Mad. Maurin reconnait avoir reçu, et les deux autres paiemens de quatre mille cinq cents piastres chaque pour parfaire le prix total de la vente de huit mille piastres sont obligatoires par la stipulation ci-dessus; et en considération du payement de la dite somme de dix huit mille piastres effectué comme il est cy-dessus stipulé, la dite Dame Maurin avec l'autorisation de son épouse se dessaisit de son droit de propriété sur la terre ci-dessus décrite ainsi que les bâtisses et clotures qui en dépendent pour en revêtir le dit sieur Jn. F'ois Laville pour qu'il la posséde en toute propriété à perpétuité lui et ses héritiers avec tous les droits et avantages y attachés la lui garantissant libre d'hypothèque, eviction, aliénation et révendication quelconque se réservant la dite Dame Maurin hypothéque spéciale sur la terre, objet de la présente vente jusqu'au parfait payement de son prix d'achat; il est convenu entre les parties que l'habitation ne sera livrable que dans vingt jours de cette date Mad'e Maurin a pour assurer la validité de la présente vente, déclaré qu'elle la faisait de la libre volonté et qu'elle donnait pouvoir à son acquéreur d'en faire usage contre elle en jugement comme propriété à lui appartenant aussi bien contre elle que contre elle en jugement comme propriété à lui appartenant aussi bien contre elle que contre ses héritiers, s'obligeant de soutenir et défendre la présente vente en faveur de son acquéreur renonçante à tous ses droits qu'elle dit bien connaitre à la présente propriété vendue et de ne jamais revenir contre la dite vente pour quelque pretexte que ce soit toute la responsabilité de tous dommages et interêts qui pourraient résulter à son acquéreur renonçante à toutes les lois et coutumes qui pourraient être en sa faveur et Mr. Jn. F'ois Laville étant personnellement présent a accepté la présente vente avec les conditions y stipulés.

Fait et passé à la paroisse de l'Asencion le vingt huit du mois de Juin de l'année de notre seigneur mil huit cent vingt trois en présence de Sieurs Felix Gareau et Pre. Martel témoins requis et de moi dit juge.

(Signé) MARY J. MAURIN née CONWAY,
MAURIN,
F. LAVILLE,
Temoins: P'RE MARTEL,
F'X GAREAU,
CARLIER D'OUTREMER, *Juge.*

I certify the foregoing to be a true copy of record in my office. In testimony whereof, I have hereunto set my hand, and affixed my seal of office, at the parish of Ascension, State of Louisiana, on this thirteenth day of May, anno domini one thousand eight hundred and thirty-six.

" The word "*payable*" interlined, approved.

[L. s.] (Signed) EDWARD DUFFEL,
Judge and Notary Public.

No. 9.

Sale of the Indian Chief Catafaul to Maurice Conway and Alexander Latell, for a tract of land of more than half a league, A. D. 1774.

Sepan cuantos esta carta vieren como yo Calufane Jefe nombrado preste Superior Gobierno para la direccion y mando de los Indios de la nacion Baiagula y Houma en la mejor forma que hara lugar en drō Senior Ciertō y Savedor del que en este caro me compute otorgo por la presente que cedo renuncio y traspaso en Dn. Mauricio Conway y Dn. Alexander Latill vecinos de esta ciudad un pedaso de tierra de mas de media legua, distante de esta ciudad veinte y dos leguas a este lado que linda por el lado de arriba con tierras del nombrado Juan Maestro de Henero y por el lado de aiyo con las Rancherias en donde habitan actualmente, mis dos expresados Naciones de Indios que levantan do los de d'ho citio por establecer los al otro lado del rio, es el verdadero lindero, las tierras de un Acadiano viejo nombrado Pedro que de las medidas y divisiones de linderas que haran las expresadas resultará asi lo que comprehende el a'ho pedeso de tierra como las personas que dividen las limites. Cuio pedoso de tierra la tuvo en propriedad, un frances nombrado Blampen curos bienes y entre ellas la d'ha tierra fue vendida en publica subasta por ciertos cumines en que delinquio y en ella judicialmente la compro otro frances nombrado Titon qui fue secretario de este gobierno habra como quince o veinte años el qual la poseio algun tiempo y quedo abandonado y valdia por cuia razon con el permiso del señor Gobernador en el tiempo de la occupacion de su Mag'd. Christianisima lo he poseido estableciendo sombre ella la residencia de las expresadas dos naciones y todo lo que comprehende al o'ho pedaso del tierra en la misma conformidad que me fue

concedido, en nombre de los expresados mis Indios la cedo renuncio, y traspaso en los expresados. Dn. Alexander Latill y Dn. Mauricio Caunet sin exceptuar ni recerrar en mi ni en las d'has, mis Indios cosa alguna por el precio de ciento y cinquenta pesos, que me han entregos en mercancias a precios currentes y de mi satisfaccion y por no ser la entrega de presente renuncio la ecepcion de la non numerata pecunia y declaro que el justo precio y verdadero valor; de d'ho pedaso de tierra son las expresadas, ciento y cinquenta pesos, y que no vale mas y que si mas vale ó valiere de qualquiera porcion que sea le hago a los ante d'has compradores y a sus herederos gracia cesion donacion buena pura, mora perfecta accabada y irrevocable que lo drō llama inter vivos, y dede hoi dia de la f'ha pr. siempre me aparto y a las d'has mis Indios de culcquiera orō que al d'ho pedaso de tierra habiamos y teniamos, y todo lo cedemos, renunciamos y traspasamos como vad'ho en las espresados compradores pr. que me reciendo la aprobacion del Sr. Gobernador general de esta ciudad y su provincia la posean como dueñas absolutos y me obligo y obliga a los d'hos mis Indios de no contradecer esta cesion por ninguna casta ni razon que sea en atencion a que quedos y quedan las d'has mis Indios, recompensados y satisfechas con los expresada cantidad de cientos y cinquenta ps. y estando presente al otorgamiento de esta escritura nos. Dn. Alexandro Latill y Dn. Mauricio Caunet, aceptamos autro favor la expresada cesion que va hecha del expresado pedaso de tierra en la conformidad referida de ciento y cincuenta ps. que hemos satisfecho de contado y nos obligamos a presentar la copia de esta escriptura a su señorio para su aprobacion sin cuyo requisito no hemos de poder tomar posecion alguna.

En cuyo testimonio es fecha la carta en la ciudad de la Nueva Orleans en cinco dias del mes du Octubre de mil setecientos setenta y cuatro años. Y los otorgantes a qui en es yo el escrivano doi fé conosco asi lo otorgaron por medio de Juan Bautista Roussene y Pedro Lato interpretes vecinos de esta ciudad à quienes doi fé conozco siendo testigos Dn. Manuel Monteagude Dn. Pedro Conrey y Dn. Fernandes Rodriguez presentes y firmaron los otorgantes e interpretes los que supieron y por los que no unt'go. doi fe Juan Bautista Rossene, Alexandro Latill, Mauricio Caunet como t'go. Manuel Monteagudo.

Ante me: ANDRES ALMONASTER Y ROXAS, *Eno. Pub'co.*

Habiendo vista la venta celebrada por las dos naciones que expressa la anterior escriptura la apruevo y usando de la facultad que el Rey se ha sevido conferar me pr. la concesion de tierras concedo la incignuada a los compradores quienes se presentarian por en virtud de esta escritura y aprobacion dar les el titulo en forma. Unzaga Oroveio lo el Sor. Dn. Luis de Unzaga y Ameraga Brigadier de los Rs. exercitos y gobernador general de esta provincia que lo firmo en la ciudad de la Nueva Orleans en cinco de Octubre de mil setecientos setenta y cuatro.

ANDRES ALMONASTER Y ROXAS, *Eno. Pub'co.*

Concuerda con su original que ante mi paso y que da a que remito y a pedimiento de parte doi la presente en cinco fixas con esta en la ciudad dela Nueva Orleans en cinco de Octubre de mil setecientos setenta y cuatro.

Entre Reng's en la ciudad de la Nueva Orleans.

v (Signed) WOOD: WRIGHT.

ANDRES ALMONASTER Y ROXAS, *Eno. Pub'co.*

Dn. Luis de Unzaga y Amezaga Brigadier de los Rs. Exercitos Governador, Intendente é Inspector General de esta provincia de la Louisiana ro.

Vesto el antecedente testimonio y aprobacion de la escritura de venta que ha hecho asi en su nombre como en el de las naciones de Indias de Baragulas y Humas de sumando el gefe nombrado Calofue à Dn. Mauricio Canna y Dn. Alexandro Latill vecinos de esta ciudad de un pedaro de tierra que los concedio el antiguo gobierno Frances de mas de media legua de frente al rio Mississippi en la costa de Alabamahasse de distrito mr. Judice lindado por ariba con la dravitacion del llamado Juan M'tro de Heriero y por abajo con la de un Acadiano viejo nombrado Pedro y no habiendo oposicion de parte de estas ni caurano perjuicio alguno a las correspondientes linderos de sus respectivas tierras, usando de la facultad que el rey nostuene concedida otorgamos en su Rl. nombre a los citados Dn. Mauricio Cannuet y Dn. Alexandro Latille el referido pedaso de tierra de mas de media legua de tierra de frente al rio en la nominada costa, con la profundidad ordinario de quaranta arps. lindada por arriba con la habitacion de Juan M'tro de Henero, y por abajo con la del Acadiano viejo nombrado Pedro por que como propria dispongar de ella y la usufruta, reglare dote à la expresada venta y condiciones prevenidas en el reglamento del asunto. Damos la presente firmada de n'ro pr'mo con el sello de n'ras armas, y refrendada del infrascripto secretario de esta gobierno. Na. Orleans primero de Novembre de mil setecientos setenta y cuatro.

(Signed) LUIS DE UNZAGA Y AMEZAGA.

Por monado. de su s'ria.

[L. S.] (Signed) JOSEPH FOUCHER.

No. 10.

Sale of Alexander Litell to Macnimara, A. D. 1774; nothing said about the depth, the sale being made before the grant.

V'ta real.—Sepan cuantos esta carta vieren como yo Dn. Alexandro Latill vecino de esta ciudad digo que yo compré en compañia de Dn. Mauricio Cannuet tambien de este vecindario un pedoso de tierra como de media legua que poseian en propriedad por el dominiol que se les habia transferido pr. el transcurso del Jumpo las naciones de Indios Bazugula y Huma pr. escriptura otorgador pr. Calafaud Jefe de ellas que paso pr. ante el presente eno. en cinco

de Octubre de esto corriente año cuias tierras estan situadas distante de esta ciudad veinte y dos leguas lindando por el lado de arriba con tierras del nombrado Juan Maestro de Henero y por el lado de arriba con tierras del nombrado Juan Maestro de Henero y por el lado de abajo con tierras del nombrado Peret, cuia escriptura aceptado por el señor gobr. general de esta provincia en el mismo dias mes y año por tanto en la mejor forma que haya lugr. en d'ro siendo cierto y savedor del que en este caso me conspecto otorgo pr. la presente que vendo realmente y con efecto, à Dn. Barthelemy Magnemara de este vecindario, la mitad de d'ho pedaso de tierra que me corresponde y resultáre de las medias que se hicieron accepcion de dies arpanes de frente con el fondo ordinario que de la d'ha tierra reservo à mi propriedad que se han de medio al estremo de la parte de arriba y lo restante de lo vendo al expresado Dn. Bartolome Macnimaro en la cantidad de dos cientos quatro ps. que me fue pagado de contado y por no ser entrega de presente renuncio la ecepcion de la non numerata pecunia, y declaro que las d'has tierras no estan sujetas a hipotheca ni gravamen como lo hecho constar pr. certificacion del anotador de ellas y que es el justo y verdadero valor de las d'has tierras exceptuando las dies arpanes que he reservado para mi como va espresado son las enunciados dos centos y cuatro ps. que no vale mas y si mas vale ó valiere en a delante de qualquiera porcion que sea de ella hugo al d'ho.

Comprador y sus herederos gracia cesion, donacion, buena pura nuva perfecta acabada é irrevocable que el d'ro llama intervivos con la insignacion y renunciacion de la lei del ostenamiento real f'ha en Cortes de Alcale de Henares que habla en razon de las cosas, que se compran venden ò permestan por mas ó menos de la mitad de su justo precio y las quatro años en ella declarados para pedir recission del contracto à su legitimo valor siendo como es esta condicion y que para ambos partes que por ninguno se pueda pedir dolo ni engandenorme mi en ormisimente caso que la haia, y desde ni dia de la f'ha en adelante par spre jamos, me desopodera decisto y aparto de d'ro de posecion util y señorio que à la d'ha tierra a comprada à los expresadas naciones de Indios havia y tenia, a ecepcion de los d'hos diez arpanes de frente con el fondo ordinario situados al extremo de la parte de arriba como va d'ho he reservado pr. mi y todo lo cedo renuncio y traspaso en el d'ho comprador y los serios pr. que como alija seria propria habida y adquirida con justo titulo y d'ro de comprador como esta lo es la posea cambie o enagene, a su voluntad como dueño absoluto y en señal posecion titulo y recurso le otorgo esta escritura se le der los traslados autorisados que pidiere pa. que por su entrego se le pase y transfiera cuso y verdadero dominio de la d'ha tierra a ecepcion de los referido diez arpanes de frente y si otra posecion mas en forma le conveniere tomar lo puedo hacer judicial ó extrajudicialmente sin incursir en pena alguna y en el interim que no lo tomare me constituio pr. su inguilino tenedor y posedor para ponerle en ella

siempre que lo pido y me obligo a la emicion seguridad y senamiento de esta venta en tal manera que de cualquiera pleyto devote ó deferencia que le fuere puesto solase a la vos y defenza y lo seguiré a mi costa, hasta dejarle en quieta y pacifica posecion. Y estando presente al otorgamiento de esta escritura yo Dn. Bartholome Magnimara la acepto a mi favor con las condiciones expresados recibiendo compada la d'ha tierra a ecepcion de las dies arpanes de frente referidas en la d'ha cantidad de dos cientos y cuatro ps. que pagado de contado al d'ho Dn. Alexandro Latill y ambos otorgantes a la firmera y complimiento de loque dicho es obligamos novas personas y bienes habidos y pr. haber damo poder complido a las justicias de su magd. pa. que nos obliguen a su complimiento con el rigor de contencia definitiva, pasada y consentida renunciamos las leyes de not'ro favor con la g'ral que lo prohibe.

En cuyo testimonio es o'ha la carta en la ciudad de la Nueva Orleans a veinte y tres de Déciembre de mil setecientos setenta y cuatro y los otorgantes a quienes yo el eno. doy fé conosco asi lo otorgaron y firmaron; siendo t'gos.

FERNANDO RODRIGUES,
DN. PEDRO COWLEZ, y
SOLOMON MALINES, *Presentes.*
ALEXANDRO LATILL,
BARTHOLOME MAGNIMARA.

Ante mi, ANDRES ALMONASTER Y ROXAS,
E'no Pub'co.

Concuerdo con su original que ante mi paso y queda en mi poder y archivo a que me remito a pedimento de parte doi la presente en la ciudad de la Nueva Orleans en cuio foros. Con esta en el dia de su otorgamiento.

En testimonio de verdad.

ANDRES ALMONASTER Y ROXAS,
E'no Pub'co.

No. 11.

Petition of Maurice Conway to Gov. Galves for the back lands of the Houmas order of survey. Procès verbal of the survey by Don Luis Andry.

Grant by Governor Galvez, A. D. 1777.

Bien consentido segun justifico su asistencia a d'hos operaciones aprobando las como los aprobamos. Visando de la facultad que el Rei nos tiene concedido otorganos en sub real nombra al referido Dn. Mauricio Conway, la citada tierra destras o al caro de las cuarenta arpanes que contiene su habitacion en el district de la Furche sobre noventa y seis de frente al rio siguienda la misma direccion que corren aquellos p'a que como proprios disporga de ellos, y las usufrute reglandose a las mencionadas diligencias, y observando las

condiciones prescriptas en el reglam'to del usunto: Damos la presente formada de nuestro p'uno sellador, con el sello de nostras armas, y referida del infrascripto secretario de este Gobierno en la Nueva Orleans, à 21 de Junio a 1777.

[L. S.] (Signed) BERNARDO GALVEZ,
Por Mandado de M. S'ra.
(Signed) JOSEPH FOUCHER.

Recorded in B No. 1, fo. 51.

No. 12.

Sale of Mr. Latill to Magnimara, A. D. 1775, with the ordinary depth.

V'ta Real.—Sepan cuantos esta carta vieren como yo Dn. Alexandro Latill vecino de esta ciudad digo que yo compré con Dn. Mauricio Connuet con la aprobacion del señor governor general de esta prova. al gefe de las naciones de Bayagula y Huma un pedayo de tierra de mas de media legua situada veinte y dos leguas distante de esta ciudad no arriba lindando pour un lado con t'ras del nombrador Juan Miro de Henerez y por el otro con t'rras de un Acadiano viejo nombrado Pedro pr. escritura que paso ante el presente escrivano à las cinco de Octubre del año pasado de mil set's sententa y cuatro y pr. otra escritura que paso ante el mismo en veinte y tres de Digre. de d'ho año le vendio Dn. Bartholome Magnimara de este vecindario la mitad de la dicha tierra que esta situada a este lado del rio y compré *con el referido* Dn. Mauricio Connuet a excepcion de diez arpanes de tierra con el fondo ordinario que de ella reserve à mi propriedad que se habian de media al extremo de la parte de arriba pr. tanto en la mejor forma que habia lugar en d'ro siendo certo y savedor del que en este cosa me compate otorgo pr. la presente que vendo realm'te y con efecto al mismo Dn. Bartholome Magnimara los d'hos diez arpanes que de la expresada tierra reservé para mi como ha referido por la cantidad de cien ps. fuertes que me ha pagado de contado y pr. no ser de presente renuncio la ecepcion de la non numerata pecunia y pr. libre de gravamen i hipotheca como lo he hecho constar pr. certificacion al anotador de ellas y declaro que el justo precio y verdaden valor de las enunciados dies arpanes de tierra son los d'chos cien ps. $ que no valen mas y si mas valen o valieren en adelante de qualquiera porcion que sea de ella hago al d'ha comprador y à los suios gracia cesion, donacion pura, merá perfecta, acabada y irevocable que el derecho llama f'ha inter vivos con la imignacion y renunciacion de la lei del ordonam'to rl. f'ha en costes de alcala de Henares que habea en razon de las cosas que se compran venden ó per mutan pr. mas o meno de la mitas de su justo precio, y los cuatro años en ella declarado para pedir recision del contracto a su legitimo valor, siendo como es esta condicion equal po. ambos partes que ninguna se pueda pedir d'ho ni engaño, enorme ni enormire momente cosa que lo

naia y desde or dia dela f'ha en adelante pr. siempre jamas me desopodero desisto y aparto del d'ro de propriedad posecion util y senorio que a d'hos dies arpanes de tierra habia y tenia y todo lo cedo renuncio y traspaso en el comprador pa. que como soyas proprios los poseo, vendo o enagene a su voluntad en virtud de esta epra que a su favor otorgo en señal de posecion, titulo voy y recurso de la que como real vendedor consiento que el presente eno. le de las transladas autorisadas que pidiere: o me obligo a que esta escritura en todo tiempo le sera cierta y segura y que yo mi mis herederos ni succesores se lo contradiremos ni reclamaremos en manera alguna y caso que lo hagamos pr. el mismo ha de ser visto haberla aprovado, y revalidado y quedar suplido en ella quales quien, defecto de clausula o circumstancia especial que en este debe incluirse año diendo fuere a feurga y contracto a contracto con los demos que pr. oro se requieran y sean necesarios, po. lo qual obligo mis bienes habidos y por haber he a qui por incerta la clausula guarantigia y renuncio las leyes de mi favor con la general que lo prohibe enforma. Y estando presente al otorgamiento de esta escritura yo Dn. Bartolome Magnimara lo acepto a mi favor recibiendo por ella comprados los dies arpanes de tierra nominados en la cantidad y conformimad que me han vendidos de ellos me doi pr. entregado a mi voluntad, renuncio la prueva leyes de la entrega, los de la cosa no vista ni recibido, do lo y demos del caso de que otorgo recivo en mi forma.

En cuio testimonio es f'ha la casta en la ciudad de la Nueva Orleans, a veinte y cinco de Abril de mil sett's sententa y cinco y los otorgantes a quienes yo el e'no doy fé conosco asi lo otorgaron y firmaron. Siendo testigos:

FERNANDO RODRIGUEZ,
PEDRO COWLEY, y
SALOMON MALLIENES.

Presentes: ALEXANDER LATILL,
BARTOLOME MAGNIMARA.

Ante mi, ANDRES ALMONASTER Y ROXAS,
E'no Pub'co.

Concuerda con su original que ante mi paso y queda en mi poder y archivo a ge. me remito y a pedim'to de parte doi la presente en sus foras con esta en la ciudad de la Nueva Orleans en el d'ra de mi otorgamiento.

En testimonio de verdad.

(Signed) ANDRES ALMONASTER Y ROXAS,
E'no Pub'co.

No. 13.

Copy of the sale of part of the Houma lands to Oliver Pollock.

V'ta Real.—Sepan cuantos esta carta vieren como yo Dn. Mauricio Conway vecino de esta ciudad otorgo por la presente que vendo realmente y con efecto à Don Olibero Pollock de este vecindario

treinte y seis arpanes de tierra de frente y el fondo hasta el lado distante de esta ciudad veinte y dos leguas a este lado del rio arriba que con major porcion de mitad compre con Dn. Alexandro Latill en cinco de Octubre del año pasado de mil setecientos setenta y seis el referido Latill me vendio la que le pertenecian de mitad que ambas escrituras.

Pasaron ante el presente escrivano y sin embargo que en la primera no consta el fondo que la referida porcion de tierra tiene sino ser de largo de mas de media legua habiendo representado a los senores gobernadores generales de esta provincia Dn. Luis de Unzaga y Amezaga, y Dn. Bernardo de Galvez el primero dio permiso a Dn. Luis Andry para parar al parage de la Fourche que es el de dicha tierra la mediese y diose posecion de la que necesitara mas en la vendida, y en efecto habiendole executado dicho Dn. Luis Andry en nueve de Octubre de mil setecientos setenta y seis, en virtud de lo mandado por dicho señor governador en su decreto de veinte y siete de Septiembre de d'ho año, medio dicha tierra en mi presencia des de los limites de Francisco Duhan hasta las tierras de Miguel Chiaton linderas señalados Calajabe Indio gefe de la nacion Bayagula y Huma do quien las compre en cien pesos de dicho Latill como va expresado y encontra leñer de frente dicha tierras noventa y seis arpanes y de fondo hasta el lago y por no haber comprado yo mas que quaranta arpanes de el en virtud de lo mandado por dicho señor Dn. Luis de Unzaga me paso en posecion de todo el restante hasta dicho lago correspondiente a los enunciados noventa y seis arpanes todo lo cual aprovo el señor Dn. Bernardo de Galvez, gobernador de esta provincia en veinte y uno de Julia de año proximo parado de mil setecientos setenta y siete, y usando de la permision que en d'cha comision le me ha dado por vender, o enagenarme de dicha tierra a mi voluntad cierto y savedor de el que en este caso me compete y otorgo por la presente como va expresado al enunciado Dn. Olivero Pollock los referidos treinta y seis arpanes de frente en esta forma, veinte y uno arpanes de frente y el referido fondo lindando por un lado y otro a mi dicho vendedor por la cantidad de dos mil pesos y quinze arpanes de frente, y el mismo fondo lindando por un lado tambien a mi dicho vendedor por la cantidad de dos mil pesos y quinze arpanes de frente y el mismo fondo lindando por un lado, a mi dicho vendedor y por el otro con Dn. Gabriel Pero y per libre de hipotheca como lo ha hecho constar por certificacion del anotador de ellas, en cantidad de mil quinientos pesos que ambos hacen la de tres mil quinientos pesos que he recibido de contendo de que me doi por entregado a mi voluntad y por no ser de presente la entrega renuncio la excepcion de la non numerata pecunia y otorgo formal recibo y declaro que el justo precio y verdadero valor de dichas treinta y seis arpanes de tierra y fondo expresado con los enunciados tres mil quinientos pesos que no vale mas, y si mas vale o valiere en adelante de qualquiera porcion que sea de ella hago al dicho comprador y à las suyos gracia

cesion, donacion pura mera perfecta acabada é irrevocable que el derecho llama intervivos, con la imignacion y renunciacion de la lei del ordanamiento real, fecha en cortes de alcale de enares que hablan en razon de las cosas que se compran vender o permuten por mas o menos de la mitad de su justo precio y los quatro años en ellos declarados para pedir recension del contracto a su lexitimo valor siendo como esta condicion y renunciacion igual por ambos partes para que por ninguna se pueda pedir dolo ni engaño enorme ni enormisimamente caso que lo hasa y desde oy dia de la fecha en adelante por siempre jamas nos desistimos y apartamos del derecho de propriedad posesion util dominio y señorio que a treinta dicho arpanes de tierra de frente y fondo expresado habia y tenia y todo lo cedo renuncio y traspaso en el comprador y en quien su causa y derecho hubiere para que como sugos proprios los posea, venda cambie o enagene a su voluntad en virtud de este escritura que a su favor en señal de real entrega con lo que ha de ser visto haber adquirido su posession sin que necesite de otra prueva de que le relevo y me obligo de la emision seguridad y lanamiento de esta venta en toda forma de derecho y con mis bienes habidas y por haber doi aqui por incerta la clausula guarantigia y renuncio las leyes de mi favor con la general que lo prohive; y estando presente al otorgamiento de esta escritura yo el dicho Pollock lo acepto a mi favor comprados dichos treinta y seis arpanes de frente y fondo esperado en la cantidad y conformidad que me van vendidos de ellos me doi por entregado a mi voluntad y otorgo formal mi recibo.

En cuio testimonio es f'ha la carta en esta ciudad de la Nueva Orleans a cinco de Marzo de mil setecientos setenta y ocho años: y los otorgantes a quienes yo el escrivano doi fe convoco asi lo otorgaron y firmaron. Siendo testigos: Dn. Fernando Rodriguez, Pedro Cowley, y Estevan de Quinones, vecinos de esta ciudad presentes.

MAURICIO CONWAY,
OLIVERO POLLOCK.

Ante mi, ANDRES ALMONASTER Y ROXAS,
E'no Pub'co.

Es conforme a la escritura original que segun parece paso ante Dn. Andres Almonaster y Roxas, eno. pub'co. que fue que por ahora queda en mi poder y archivo de mi cargo a que me remito y de pedimento de parte doi la presente. Nueva Orleans veinte y nueve de Abril de mil sets. noventa y cuatro años en md.. siete y do; testado gravamen nova.

† (Signed) CARLOS XIMENES.

No. 14.

Stephan de Quinones, notario publico de esta ciudad y territorio de Orleans por los estados Unidos de America.

Certifico en la mejor forma que puedo y debo; que en los autos dela mortuorio del difunto Sr. coronel de milicias Dn. Gilberto An-

tonio, Prest. Maxent en la pieya principal No. 1o. folio doce, se halla una clausula de su testamento testimonado que es la decima tercia del tenor siguiente.

"Declaro para loque puedo importar tener entre mis bienes una habitacion en el parage nombrado Humas, como a diez y ocho leguas de esta d'ha ciudad la que compre en seis mil pesos de Dn. Mauricio Conway hábra siete años por escritura en uno de los oficios de esta misma ciudad con diez y ocho arpanes de frente y con mas de cuatro leguas de profundidad."

En el incidente No. 2 de la mortuaria de d'ho Sr. de St. Maxent sobre la venta de sus bienes a foras trescientos setenta y ocho se halla el ante del tenor siguiente extractado.

"Y en cuanto a las tierras de Humas librese el desfacho que se pide in certandose el contenido debescrito antecedente para que nombrando los peritos q'e. acepten y puren, tasen las tierras y las venda al contado excediendo de los dos tercios remittendo su importe en primera ocasion segura. Juan Ventura Morales, Licenciado Manuel Seirand." A foras trescientos setenta y ocho vuelta del mismo incidente se halla la siguiente representacion hecha pr. Dn. Evan Torres commandante que fué à la parroquia de la Fourche al Sr. Intendente de Rl. Hayienda.

"Hallando me en comino para esta ciudad récebi el despacho antecedente el que no he podido executar par la razon espuesta y necesitando se segun me trago cargo de que la estimacion de las tierras de las Humas, se execute con la mayor anticipacion, loque no podra verificarse hasta mi regreso a mi destino hago presente a vmd. que en esta ciudad se hallan dos sugetos y Lou. D. Simon Ducourneau y Dn. Alexandro Lesassier que tienan bastante conocimiento de la calidad y circunstancias de la d'ha tierra; por lo que podra vmd.. si lo tiene a bien mandar se estime por las sus dichos.

"Nueva Orleans primero de Agosto de mil setecientos noventa y ocho."

EVAN TORRES.

Que seguidamente hai el decreto seguiente.

Nueva Orleans tres de Agosto de mil setecientos noventa y ocho con atencion a loque produce la diligencia antecedente, procedare al avaluo ke las tierras Humas por D. Simon Ducourneau y Dn. Alexo. Lesasier aceptando y jurando antes Morales.

LICENCIADO SERRANO.

Ante mi: CARLOS XIMENES.

En el mismo incidente y a foras trescientos y ochenta vuelta se halla la estimacion siguiente.

En la ciudad del Nueva Orleans en dicho dia mes y año, ante mi el escribano parecieron D. Alexo. Lesasier y dn. Simon Ducourneau apreciadores nombradas en estas diligencias y enterados

del decreto precedente, como tambien del ante contenido en el dispacho anterior proveido en onze de Julio ultimo dixeron; que en atencion a tener como cimiento, inteligencia, é instrucion de las tierras Houmas pertenecientes a la succession del señor difunto Coronel D. Gilberto Antonio de St. Maxent distantes de esta capital como veinte y cuatro leguas, hecho cargo de que la dotacion de estas tierras se compone como de veinte y nueve arpanes de frente con mas de cuatro leguas de profundidad las Tarabanz desde largo tasan, consultado se entre si y acordadose en la cantidad de dos mil y quatro cientos pesos., con atencion aver una tierra despoblada el dia sin edificios ni cosa des provecho sobre ella, cuio precio es el que le dan por ser el que consideran valer y no mas y firmaron de que yo el escribano doi fé.

A. LESASSIER,
SR. DUCOURNEAU.

Ante mi: CARLOS XIMENES.

Y seguidamente hoi este decreto, el presente escribano pasara a la cosa del impresor y manifestandole la tagasion precedente de las tierras de Humas, hara es lo que noticia de ellas en el periodico annunciando que su venta se hara el trece del corriente a las cuatro de la tarde en esta Intendencia Morales; licenciado Serrano. Al folio tres cientos ochenta y dos hai la sig'te. n'ta.

Que pase noticia al impresor segun se manda para que la incluyese en el periodico doi fé Ximenes. Aqui se coloca el anto extractado (al impresor D. Juan Bautista Fontarne) del periodico No. 11, publicado el nueve de Agosto de mil sete cientos noventa y ocho y es el siguiente.

"A vendre une terre de vingt neuf arpens de face sur environ quatre lieues de profondeur, située à vingt quatre lieues de la Nouvelle Orléans, du même bord dans l'endroit vulgairement appelé Humas appartenante à la succession de feu Monsieur de St. Maxent éstimée en l'inventaire deux mille quatre cents piastres sera adjugé définitivement le treize du courant à quatre heures de l'après midi à l'intendance au plus offrant et dernier enchérisseur." Al folio tres cientos ochenta y dos vuelta se halla el decreto siguiente N. Orleans 6 Agosto del 1798.

Respecto a que el decreto antecedente debe compluse despues de que Dn. Evan Torres commandante à la Fourche no hubiere vender las tierras libresele despacho con insercion de la tagasion y esta providencia por a que proceda a la d'ha venta al contado siempre que procedo à la d'ha venta al contado siempre que exceda de los dos tercios del valor dado no habiendo quien apeyca mas pague la cantidad que se debe por la construcion malcion poniendo recibo à continuacion de las diligencias y remitiendo estas con el resto a este tribunal dando razon antes del dia treze del corriente con atencion a lo ga decretado en el particular.

JUAN VENTURA MORALES,
LICENCIADO SERRANDO.

Ante mi, CARLOS XIMENES.

Al folio tres cientos ochenta y seis vuelta, se halla en el Idioma Frances el documento siguiente :

[Page 207.] " A la Fourche de Cherimaches paroisse de l'Ascencion, et paroisse de la Louisiane, aujourdhui onze du mois d'Août de l'année mil sept cent quatre vingt dix huit. Nous D. Evan Torres capitaine du régiment de milices provinciales d'infanterie des Allemands et commandant du district susdit afiu de remplir et exécuter le decret précédent nous sommes transporté à la porte principale de l'Eglise de la susdite paroisse où de la sortie de la sainte messe un nombre considérable d'habitants et autres étant assemblés nous avons fait publier et proclamer à haute et intelligible voix par Jn. B'te Cazelon, criéur ordinaire que nous allions tout présentement procéder à la vente et adjudication finale au plus haut et dernier enchérisseur de la susdite terre située aux Houmas, appartenant à la succession du difunt Colonel D. Antoine Gilbert de St. Maxent conservant vingt neuf arpens de face sur la profondeur qui pourrait s'y trouver suivant d'environ trente six degrés attenant par en haut à la terre de François Duhan et par en bas à celle de Patrice Conway à condition que l'adjudicataire ou acquéreur sera tenu de payer le prix de l'adjudication au comptant, et la dessus la dite terre ayant été criée et proclamée à haute voix et toute personne invitée à mettre l'enchére : elle fût mise d'abord par le Sieur Joseph Landry à la somme de onze cents piastres gourdes, enseinte par le Sieur Raymond Brandt, à onze cent cinquante piastres; par le Sieur Joseph Landry à douze cents piastres ; par le Sieur Raymond Brand treize cents piastres ; par le Sieur Paul Landry à quatorze cents piastres ; par le Sieur Raymond Brand, à quinze cents ; par le Sieur Joseph Landry quinze cent cinquante piastres ; par le Sieur Raymond Brand à seize cents piastres ; par le Sieur Joseph Landry à seize cent vingt cinq piastres, et par le Sieur Louis Faure à la somme de mil six cent cinquante piastres ; et après plusieurs criées et avoir attendu plus de duex heures sans qu'il se soit présenté personne pour augmenter ou couvrir la dite enchére nous avons adjugé et adjugeons finalement et définitivement la dite terre avec toutes ses circonstances et avantages quelconques telle qu'elle se trouve actuellement au susdit Louis Faure et à ses héritiers et pour toujours pour la susdite somme de mille six cent cinquante piastres qu'il nous a compté et payé comptant et le dit Sieur Louis Faure étant présent et ayant accepté et approuvé la dite adjudication en sa faveur dont il s'en déclare satisfait et content pour avoir vu et visité la susdite terre nous avons arrêté et arrêtons la dite adjudication et le susdit Louis Faure a signé le présent acte en présence des Sieurs Joseph Briguaud, Pierre Chieux, Joseph Conrey, et Remond Brand, temoins d'assistance requis qui ont signé avec nous le jour, mois et an comme cidessus, Louis Faure, Joseph Bijout, Pierre Chieux, Joseph Counet, Raymond Brand, et notre commandant, Evan Torres.

Al folio dos cientos setenta y seis se halla la representation y decreto siguiento.

"Dn. Pedro de Marigny caballero de la orden de Dn. Luis sus dice de los acredorses del difunto J. Coronel D. Gilberto de San Maxent en las autos de la testamentaria de d'ho S. y lo demos como mejor procedo de derecho digo que se me ha dado traslado de un oficio dirigido a vmd. por D. Miguel Cantrelle commandante al puesto de cabarnoce en esta provincia por el cual participo a vmd. que la habitacion de esta sucesion situada en el puesto de la Fourche y llamada communente de Huma no ha sido jugada a mas de mil y quinientos pesos sin embargo de haberlo hecho pregonarlo en diferentes Domingos y que parece sera conveniente se suspendo en venta hasta el mes a Agosto proximo continuando sus pregones y enviando cedulones à todas las puertas pa. la inteligencia de aquellos moradores, salvando el mejor dictamen a vmd. y contestando lo consento de los antos de la mortuaria de d'ho jr. difunto espongo que consequente a la clausula decima tercia del testamento de d'ho sl. que corre a foras doze declaro que d'ha habitacion citada, situada en el parage nombrado Huma como a dies y ocho leguas de esta ciudad que hubo por seis mil pesos de D. Mauricio Conway por escritura en uno de los archivos de esta d'ha ciudad compuesta de dies y ocho arpanes de frente y con mas de cuatro leguas de profundidad, cuia habitacion se estimo por tres peritos a foros ochenta ocho de ellos mismos autos en la cantidad de cuatro mil y quinientos pesos y en atencion a que la postura que se hijo de ella no es mas que la mitad de los dos tercios en que a lo menos debe rematarse y que tal vez aquellas habitantes ignorando el fundo que tiene d'ha habitacion no habra hecho las pujos necesarios por el mas valor que debe tener de servira vmd. mandar que con insercion de esta representacion y la providencia que a ella recayere se libre despacho en forma al relacionado D. Miguel Cantrelle, a fin de que haciendo la pregonar hasta el mes de Agosto remitiendo cedulones a los puestos immediatos admitiendo las posturas que se higieren que firmaron a continuacion los postores y enterando a todas de la profundad que tiene dicha habitacion los propongo se adjudicará por el todo o por partes como mas conveniente le pareciere cuyas posturas evaguadas en d'ho mes de Agosto los remittira a este tribunal para que en su vista servira determinar la adjudicacion que debe hacerse segun los mismos a los playos y con los seguridades que deban dar los rematadores confianzas idoneas por tanto. A. V. suplico se sirva prover y mandar hacer como pido con justicia, cartas y jura, &c."

PEDRO MARIGNY.

Como lo pede hai rubircas certifico que las copias como los extractados anteriores son conformes a sus originales, yo citados que a efecto de sacar, lo presente me manifesto Mons'r Bourgeois secretario del consejo de esta ciudad a quien los devolvi corregidos y correctadas y a ellas me refiero como tambien el aviso incerto extractado del libro impreso que me manifesto Dn. Juan Bautista Fontaine que corregido y concertado lo conservo en su poder y a

el me refiero y a pedimiento de D. Daniel Clark doi la presente en esta ciudad de la Nueva Orleans a catorce de Octubre de mil ochocientos y ocho años y el trigesimos tercio de la independencia Americana que firme y selle con el sello de mi oficio.

Em'do capital: entre veng'd: metre todo vale.

[L. s.] (Signed) STEPHEN DE QUINONES,
Not're Pub.

No. 4. NEW ORLEANS, *January 16th*, 1817.

The foregoing was this day translated by me.

(Signed) MICH'L DE ARMAS, *Not. Pub.*

No. 15.

Señor Intend'te G'ral yo Jose Zamora con el debido respeto expone à v. que teniendo encargo de Dn. Luis Feaure crujajero major de la plaza de Baton Rouge para que le remito una copia del remate que se ha celebrado de las tierras de otuma por ser proprietario de ellas en virtud de la adjudicacion que en el se hizo y como p. à poderlo verificar es necesario que Dn. Carlos Ximenes, eno. pub'co, le expido d'ho documento por hallar se los originales en el oficio de su cargo.

A. V. suplico se sirva mandar se le despache y es gracia que recivira de la justificacion de v'm.

NUEVA ORLANS, 13 *de Noviembre*, 1798.

(Signed) JOSE ZAMORO, *Como Copide.*

Proveyo el sr. licenciado Dn. Man'l Senaro Altenon g'ral de la intend'a y intendente general interimo de esta provincia por S. M. que lo en bruo en la Nueva Orleans a catorce de Noviembre de mil setecientos noventa y ocho años.

(Signed) CARLOS ZIMENES.

En d'ho dia, mes y año yo el eno. notifique el decreto antecedente a Dn. Joseph Zamora en su persona; doi fé.

(Signed) XIMENES.

Traducion del remate dela Tierra de Humas celebrado a favor de Dn. Luis Faures.

En la ciudad dela Nueva Orleans a tres de Deciembre de mil setecientos noventa y ocho yo Dn. Pedro Derbigny interprete publico y nombrado en esta causa hai la traducion de las diligencias que anteceden en las terminos siguientes.

En Lafourche de Chetimachas.

Paroquia dela Ascension provincia dela Louisiane, hai doce del mes de Agosto debaño de mil setecientos noventa y ocho nos. Dn. Evan Torres Capitan del Regimiento de Milicias provinciales de Infanteria de los alemones y commandante delante dicho distrito

para el complimiento y execucion del decreto antecedente nos transportemos à la puerta principal de iglesia dela dicha paroquia donde al salir de la santa misa, hallandose juntado un numero crecido de vecinos y otros individuos hemos hecho publicar y pregonar con alta y inteligible voz por Juan Bautista Cazebon, pregon'e. ordinario que incontinenti ibamos a proceder a la venta y remate final al mayor portor dela nunciada tierra situada en el parage llamado Humas perteneciente a la sucesion del difunto Coronel Dn. Antonio Gilbert de San Maxent teniendo veinte y nueve arpanes de frente con la profundidad que pueda hallarse abiendo de como treinta y seis grados lindando por arriba a la tierra de Francisco Duhan y por abajo a la de Patricio Conway con la condicion de que el rematador ó comprador tendro de pagar de contado el precio del remate y confirme a esto habiendose pregonado con alta voz la dicha tierra y toda persona incitada a prejar la puso primero Dn. Joseph Landry a la cantidad de mil y cien pesos fuertes despues Dn. Ramond Brand a mil ciento y cinquenta pesos, Dn. Joseph Landry a mil y tres cientos pesos, Dn. Pablo Landry a mil y cuatro cientos pesos, Dn. Ramond Brand a mil y quinientos pesos, Dn. Joseph Landry a mil quinientos y cinquenta pesos, Dn. Ramond Brand a mil seis cientos pesos, Dn. Joseph Landry a mil seis cientos veinte y cinco pesos, y Dn. Luis Faure, a mil seis cientos y cinquenta pesos, y despues de varios pregones y de haber aguarlado mas de dos horas sinque se haya presentado nodie poca pujar mas hemas rematado y rematamos final y definitivamente la dicha tierra con todas y cualesquieras sus pertinencias y ventagas asi como ahora esta asi como ahora esta al ante dicho Dn. Luis Faure y a sus herederos para siempre por la expreso cantidad de mil seis cientos y cincuenta pesos que nos ha pagado de contado y el dicho Luis Faure que se halla presente habiendo aceptado y aprobado la d'ha adjudicacion a su favor de que se ha dado por satisfecho y contento por haber visto y visitado la dicha tierra hemos cerrado y ceiramos e presente remate y firmo el memorado Dn. Luis Faure la presente escritura en presencia de los Señores Joseph Bujeaud, Pedro Arrieux, Joseph Caunus y Remond Brand testigos de asistencia requiridos que ha firmado con mas en el dicho dia mes y año, Luis Faure, Joseph Bujaut, Pedro Arrieux, Joseph Comes, Raymond Brand, y yo comandante Evan Torres. Cuya traducion expreso d'ho interprete haber hecho bien y fielmente segun su real haber y entender y lo firmo, ante mi el escribano de que doi fé.

PEDRO DERBIGNY.

Ante mi: CARLOS XIMENES.

Es copia del remate traducido del idioma Frances, al Español celebrado a favor de Dn. Luis Faure de las tierras nombradas Aumas correspondientes a las vecinos del defunto Señor Coronel Dn. Gilberto Antonio de San Maxent en la Fourche ante su commandante Dn. Evan Torres que se halla colocada a foras tres cientos

noventa y cuatro de los antes sobre la venta de vienes de d'ha sucesion a que me remito y cumpliendo lo mondado doi la presente en la Nueva Orleans a cuatro de Diciembre de mil setecientos noventa y ocho: dro qure.

(Signed,) CARLOS XIMENES.

No. 16.

For first part of this document, see page 196.

A Lafourche de Chetimachas aujourdhui, dix sept du mois d'Août l'année mil sept cent quartrevingt dix huit, pardevant nous Evan Torres commandant susdit et les témoins d'assistance ci-après nommées se sont présentés Joseph Landry lieutenant de milice et habitant du susdit district lequel a confessé et déclaré avoir recu du dit commandant Evan Torres "la somme de mille six cent et douze piastres pour paiement de la levée, chemin, fossé de transpiration et écoulineurs et pont, faits sur la terre aux Houmas ci-devant mentionnée, y compris les honoraires du dit commandant frais d'arpentage dela levée, &c., selon le decret du tribunal et aussi la somme de seize piastres deux escaliers et demie que l'on a calculé comme dans le compte présenté au dit tribunal pour la dite levée et trente deux arpens et dix toises de levée, &c., a garantie neuf piastres l'arpent, faisant mille cinq cent quatrevingt quatre piastres deux réaux et demi au lieu de mille cinq cent soixante et huit piastres comme il a été calculé.

En foi de quoi il a signé le présent reçu en présence des Srs. Joseph Bajeaud et Pierre Arrieux; témoins d'assistance requis qui ont signé avec nous les jour, mois et an que dessus. J'h. Landry, J'h. Bajeaud, P're. Arieux, et nous commandant Evan Torres.

Note des derniers frais, savoir; 3 vacations du command't. pour

l'adjud'n. P. - - - - - -	16 4
4 affiches à l'adjudication - - - -	5 4
Pour le crieur - - - - - -	3
	$25

La succesion redoit P. S. $2\frac{1}{2}$ E. TORRES.

Pour copie conforme à l'original.

(Signed,) E. TORRES.

I certify the foregoing to be a true copy of the original resting in the archives of the parish of Ascension.

In testimony whereof, I have hereunto set my hand, and affixed my seal of office, this fifteenth day of February, in the year of our Lord one thousand eight hundred and nineteen.

(Signed) CARLIER D'OUTREMER, *Judge.*

No. 17.

Petition of Wm. Conway to Land Office.

LAND OFFICE, *Eastern District of Louisiana:*

Notice of the claim of William Conway, of the county of Acadia, in the eastern district of the territory of Orleans.

William Conway claims a tract of land situated in the county aforesaid, at the place called Houmas, on the left bank of the Mississippi, containing twenty-two and a half arpens in front on said river, with an opening towards the rear of 60 degrees and 45 minutes, the upper line running N. 9° 15′ E., three hundred and fifty-one arpens; and the lower line directed N. 7° E., and measuring four hundred and fifty-five arpens; bounded on the upper side by Danl. Clark, and on the lower by Simon Laneau, as more fully described in the annexed plat, executed by Bartholomew Lafon, deputy surveyor, dated February 20th, 1806.

Part of said land, that is to say, seventeen arpens front were originals, granted, with a greater quantity, by the Spanish Government, to Maurice Conway, by virtue of a complete title issued on the 21st day of June, 1777, as per document No. 1, and the same conveyed to the claimant by the grantee aforesaid, on the 27th day of October, 1786, as per document No. 2.

And the five and a half arpens remaining to the complement of the 22½ aforesaid, were transferred to the claimant on the 27th day of March, 1791, by Pierre Part, who had purchased the same at the public sale made before Louis Joudice, commandant of the parish of Lafourche, of the estate of the late Joachim Min, (alias Belony,) on the 7th day of December, 1788, as it evidently appears by the authentical document hereunto annexed, No. 3.

It is to be observed, that although the deed of conveyance of Maurice Conway aforesaid, contains 27 arpens front, the claimant only possesses seventeen, having disposed of the other ten in favor of Daniel Clark.

(Signed) WM. CONWAY.

On the back of the foregoing application, is written the following endorsement, viz:

No. 125.

TERRITORY OF ORLEANS, *Eastern District:*

Notice of claim of William Conway, filed New Orleans, February 28th, 1806.

(Signed) J. W. GURLEY, *Register.*

REGISTER'S OFFICE, *New Orleans.*

I, P. A. St. Martin, register of the land office at New Orleans, do hereby certify the foregoing application, and endorsement on

the same, to be true copies taken from the original on file in this office.

In faith whereof, I hereunto subscribe my name, this 17th day of April, 1839.

(Signed) P. A. ST. MARTIN, *Register.*

No. 18.

Petition of Maurice Conway to Gov. Galvez for the back land of the Houmas; order of survey; proces verbal of the survey by Dn. Luis Andry; grant by Gov. Galvez, A. D. 1777:

Señor Governador g'ral:

Dn. Mauricio Conway vecino de esta imediacion con el debido respecto A. V. S. ayo presente que hallandome en los terminos desir a establecer me por arriba, sobre la tierra que juntamente con Dn. Alex'o Latil y con el agrado de V. S. hemos comprado de los Indios Humas cuyo tereno se halla enteramente salto de cercos, y desmontado a mas de una legua en el fondo de media que la ciprieva distara de como una leguna y media del rio, sin tener yo el devecho a ello por no haberse nos concedido V. S. mas de los cuarenta arpanes del fondo ordinario con cuya cortedad, no puedo alconzar los cipres necesarios a la formacion de mis barreras y demas utilidades de una habitacion por tanto.

A. V. S. rendidamente sup'co se digne en esta atencion concederme todo el fondo que hubiere vacante, tias o. al cabo de las sus dichos cuarenta arpanes de fondo, por pertenecer me tota en la totalidad la mencionada tierra mediante la venta y cesion que por delante el Ess'no Dn. Andres Almonaster a quatro de Enero del corriente año, se me ha hecho de la porcion o mitad que correspondia al precitado Mr. Latil; suplicando asi mismo A. V. S. se sirva comisionar a Dn. Luis Andry a que venga a da me posession del expresado frente y fondo poniendo los corespondientes linderos y dando me testimonio del todo para mi governo y resguardo por cuya gracia vivire para siempre reconocido.

(Signed) MI. CONWAY.

Nueva Orleans, 9 de Septiembre de 1776.

NA. ORLEANS, 27 *de Sep'bre*, 1776.

El segundo adjud'te de esta plaza Cap'n Dn. Luis Andry pasara a la tierra que expresa este memorial y dara posesion al sup'te de la que hubiere vacante despues de los cuarenta arpanes de profundidad que poseo siguiendo la misma direcion de esto estando vacante y no prejudicando a los circumvecinos para loque señolara terminos y linderos estendiendo à la continuacion las diligencias que practicare firmando lo con los sus dichos y me los trahera para proverle de su titulo en forma.

(Signed) UNZAGA.

Dn. Luis Andry, capitan de infanteria y segundo adjud'te major de la plaza de la Nueva Orleans comisionado por su s'ria el s'or

gov'or g'ral de esta prova. de la Louisiana a fenés del anteced'te memorial y decreto; certifico haber pasado hirdia nueve del mes de Octubre del corriento año de mil setecientos setenta y seis a la tierra de que se trata en los anteriores documentos situada en el distrito de la paroquia de la Ascension ó de la Fourche sobre la margen izquierda de este rio Mississippi como a veinte y dos leguas por arriba de la referida capital, acompañado del pretendente Dn. Mauricio Conway y del commandante del mencionado distrito Dn. Luis Judice, a quien inste por inteligente que es en el idioma de los Indios Houmas y Bayagoulas a que se sirviera llama al gefe de ellos nombrado Casabe vendedor del espresado terreno para que me enseñase los terminos que le han de limitar por arriba y por abajo lo que habiendose efectuado asi y habendo concurrido el citado gefe, me respondio por medio del enunciado interprete y comand'te extenderse el terreno vendido por el y anteriormente ocupado por los Indios des de el limite inferior de Franco. Duhan por arriba, hasta el de Miguel Chiasson por abajo cumque no concuerden actualmente estos apellidos con los que se hallan assentados en el instrumento de venta por haber varias veces des de la citada epoca mudado de possedor los insignuados estancios; cuyo intermedio medi luego tirando a este efecto por el monte las lineas precisas pa. cerciorarme de su extension (cuyas lineas se hallan figuradas en el plano o basquejo de mis operaciones que entregue al referido pretendiente) y halle que cabe noventa y seis arpanes de frente al rio, en san chandose de ciento y veinte grados hacia su fondo por su situacion en el recoreco de la encenado dirigendose la linea de arriba limitrosa con Franco. Duhan a cicuenta grados del Norte hacia el oeste y lo de abajo contigua a Miguel Chiasson a setenta del norte hacia el oeste.

Vacuado el medimiento del ante d'ho frente procedi en poner al pretendiente en posesion de la profundidad que por el antecedente decreto se le otorgo a cuyo efecto habiendome restituido a la linea de arriba que colinda comel pre d'ho F'co Duhan reconoci en su presencia los terminos clarados por mi el dia 22 de Dic'bre. de 1773, los quales aun exister en la misma situacion distancia y direcion ambos de palo de Moral; el primero de cinco pies y ocho pulgados de largo y de seis y media sobre siete pulgados de quadradura pantiagudo de siete pulgados, por su cabey a y conculato bruto, puesta de dos pies y medio en tierra a treinte y siete toesas y dos pies de distancia de la margen actual del rio y el segundo de seis pies y quatro pulgados de largo, y de seis sobre siete pulgados de gucesso con punta culata y plantacion egual a las del primero a un arpen o treinte toesas mas por otras hacia el fundo, despues segui a la misma linea y en el enunciado rhumbo de cincuenta grados del norte hacia el oeste hasta las cuarenta arpanes de profundura abriendo a d'ho effecto un caminito por el monte a cuyo punto Grige Clavar un lindero de cypre de seis pesos de largo y de seis pulgados de gucesso en cuadro puntiagudo de ocho pulgados por arriba y con

culata bruto enterrada de dos pies y medio y a dos arpanes mas lejos lo davia; esto el a quarenta y dos arpanes del rio, puse otro termino igual en todas sus circumstancias a el de que se acaba de tratar.

Finalizada esta linea llegue a la de abajo, limitrosa con Miguel Chiasson à quien igualmente llame y precediendo el medimiento de las siete arpanes que por decreto del 27 de Sept'bre de este mismo año se le ha concedido el expreso Sor. Gover'or hiye clavar en ella dos terminos de palo de Moral; el primero de cutro pies y diez pulgados de largo y de como cinco pulgados y media de gruepo en quadra mal quadrado puntagudo de veinte pulgados en tierra à veinte toesas de distancia de la margen actual de rio y el segundo de quatro pies y ocho pulgados de largo y de cinco pulgados de quadradura mal quadrada tambien conpunto de siete pulgados y clavado tambien del sus d'ho hundo de veinte pulgados y en tierras a otras veinte toesas mas por el fondo, despues de que prosegui por el monte, y en la referida direcion de setenta grados del norte acia el oeste a la misma linea hasta los cuarenta arpanes de profundura a cuyo punto, hiye plantacion termino de cypre de seis pies de largo, y de siete pulgados de gruepo en quadro con punto de dies pulgados, y culata bruta, clavado de dos pies y medio de profundidad en tierra y a dos otros arpanes mas lejos todaria, esto es a quarenta y dos arpanes del rio hiye poner otro lindero del mismo tamaño e igual en todas sus circumstancias al antecedente para no desbiar el rhumbo.

Y para que de todo lo antes expresado conste, doy la presente certificacion que he firmado yo con el citado interesado Dn. Mauricio Conway y con el mencionado comand'te y interprete en eliasunto Dn. Luis Judice habiendo declarado el Gefe Indio Calabe y los dos colindantes Fran'co Duhan y Miguel Chiasson no saber firman de todo lo que doi fé en la referida costa o distrito f'ha ut supra (s'gd) Luis Andry; signed, Maurice Conway, Luis Judice, Dn. Bernardo de Galvez, coronel del batta'on de infanteria de la Luisiana Governador intendente é inspector general interino de ella, &c.

Vistas las antecedentes diligencias praticadas por el segundo adjud'te de esta plaza, Capitan Dn. Luis Andry sobre la posecion que ha dado a Sr. Mauricio Conway en virtud del decreto antecedente de mi antecesor de toda la tierra vacante detras o, a la espoldo de los quarentos primeros que posee sobre noventa y seis arpanes de frente al rio siguiendo la misma direcion de estas y reconociendo estas notadas al orden de agrimensura y a las concesiones de los circumvecinos sin que a esto se los cause perjuicio a lo ni que lo haian reclamado y si bien consentido segun justifica su asistencia a d'has operaciones aprovando las como los aprovamos usando de la facultad que el regno tiene concedido otorgamos en su real nombre al referido Sr. Mauricio Conway la citada tierra detras o al cabo de los cuarenta arpanes que contiene su habitacion en el distrito de la Fourche sobre noventa y seis de frente al rio siguiendo la misma

direcion q'e corren aquellos p'c g'c como proprias dispongo de ellas y los usufrute reglandose a las mencionadas diligencias y observando las condiciones prescriptas en el reglam'to. del asiento. Damos la presente firmada de nuestro puño sellada con el sello de nuestras armas y refiendoda en el enfra scrito secretario de este govierm'to.

(Signed) BERN'O DE GALVEZ,
Gov'dor de su S'ria.

(Signed) JOSEPH FOUCHER, [L. S.]

En la Nueva Orleans a 21 de Junio de 1777.

Recorded in Lo. No. 1, fo. 513.

(Signed) J. W. GURLEY, *Register.*

No. 27.

On this fifth day of August, one thousand eight hundred and eight, before me, John Lynd, notary public in and for the city of New Orleans, duly commissioned, and in the presence of the witnesses hereinafter named.

Personally came and appeared Pedro Le Bourgeois, of said city, who declared, that by a certain act, passed in the office of Peter Pedesclaux, notary in said city, dated the third day of March, one thousand eight hundred and six, he, the said Le Bourgeois, sold unto John McDonogh, junior, and Shepherd Brown, of the same city, their heirs and assigns for ever, a certain plantation, with certain slaves and other things thereon, situated on the river Mississippi, distant sixteen leagues from New Orleans, and on the same side of the river, laying between, and bounded on one side by lands now, or late, the property of Antoine Garidel, and on the other side by property now, or late, the property of Mariane Lanoi, containing in front of the river eighteen acres and three and one-half toises, and opening on the back lines upwards of twenty degrees, agreeable to plans delivered by him, the said Peter Le Bourgeois, to the said Jno. McDonogh, jr., and Shepherd Brown, which said plantation, or parcel of land, was bought by him, the said Le Bourgeois, from John Arnault, and Marie Delille, his wife, heirs of the deceased Delille Dupard; the whole of which tract, that is, the eighteen acres three and one-half toises front, with the opening lines, agreeable to plans thereof, was part of a larger tract owned by the aforesaid Delille Dupard, the same being a concession to him, first by the aboriginal Indian proprietors, afterwards ratified by the Government of the country; which said concession, granted to, and vested in him, the said deceased Delille Dupard, full right, title, and property to and in said tract, with all the back lands, within the lines of the side boundaries, extending and running back to lake Maurepas, and fronting said lake. And the said Peter Le Bourgeois did further declare, that he having by his purchase, from the aforesaid heirs of the deceased Delille Dupard, acquired a full and complete right to all the lands in front, and included within the side boundaries of the aforesaid piece of land, extending back

to the lake Maurepas aforesaid, as will appear by act of sale of the same, passed before Peter Pedesclaux, the notary before mentioned, on the thirteenth day of January, one thousand seven hundred and eighty-seven. Now, therefore, the said act of sale of the said tract of land to Jno. McDonogh, jr., and Shepherd Brown, passed before Peter Pedesclaux, notary, dated the third day of March, one thousand eight hundred and six, not having properly expressed his meaning and intention, he, the said Peter Le Bourgeois, doth hereby declare that, according to the true intent and meaning of the said act, he then did, in consideration of the sum of forty-six thousand five hundred dollars, which he then received, as mentioned in the said act, sell and convey, and he doth hereby confirm the same, unto the said Jno. McDonogh, junior, and Stephen Brown, their heirs and assigns for ever, all the right, title, interest, claim, and demand whatever, of him, the said Peter Le Bourgeois, of, in, and to the said tract of land, with all its original depth, as derived by him from or under the aforesaid Delille Dupard. It being understood, nevertheless, that he, the said Peter Le Bourgeois, did not, or doth not, by these presents, warrant and defend, unto the said John McDonogh, junr., and Shepherd Brown, more than the eighty acres in depth, as mentioned in the sale of the said tract of land, executed by him in the office of Peter Pedesclaux as aforesaid. But only did mean to convey and sell, and by these presents he doth confirm such conveyance and sale, unto the said Jno. McDonogh, junior, and Shepherd Brown, all the right, title, and interest of him, the said Peter Le Bourgeois, of, in, and to, the said tract of land extended, commencing eighty acres from the river Mississippi, and from thence running back to, and fronting the lake Maurepas aforesaid; and the said Jno. McDonogh, junr., being here present, doth, for himself and the said Shepherd Brown, accept of this declaration and confirmation of sale, as the true intent and meaning of the act of sale to them made, by the said Peter Le Bourgeois, and passed before Peter Pedesclaux, on the third day of March, one thousand eight hundred and six as aforesaid; all which has been agreed upon by the parties aforesaid, who have hereto set their hands.

Done and passed at New Orleans aforesaid, the day and year first above written, in presence of Davis Wright and Antoine Fromentin, witnesses who have signed with me, notary.

(Signed) P. LE BOURGEOIS,
JNO. McDONOGH, Jr. for self
and SHEPHERD BROWN,
D. WRIGHT,
FROMENTIN,
JOHN LYND, *Not. Pub.*

I certify the foregoing to be a true copy of the original on the records of my office.

New Orleans, fifth day of August, A. D. 1808.

[L. S.] Quod attestor.

(Signed) JNO. LYND, *Not. Pub.*

No. 34.

Copie.—Pardevant nous Augustin Dominique Tureaud juge de la paroisse St. Jacques, comté d'Acadie, y résidant; fut présent le sieur Antoine Trege habitant propriétaire domicilié y résidant à la paroisse St. Jean Baptiste des Allemands lequel a par les présentes, vendu, cédé, quitté, transporté dès maintenant et pour toujours sous toutes les garanties de droit et notamment de toutes espèces de troubles, éviction ou empêchement généralement quelconques aux sieurs John McDonogh, jr. & co. ici présent et acceptant pour eux et ayant causes, les immuebles et meubles ci-après détaillés, savoir: 1o. une habitation de quatre arpens de face sur la profondeur qui pourra y correspondre d'après les tîtres et procès verbaux que le dit vendeur s'oblige de délivrer aux dits acquéreurs et à leur premiere réquisition, la dite habitacion située sur la rive gauche du Mississippi distant de seize lieues environ, de la Nouvelle Orléans, bornée par en haut par l'habitation du sieur Martin Dubourg et par en bas par celle des dits sieures acquéreurs laquelle terre provient au sieur vendeur de deux arpens qu'il avait acquis du sieur Pierre Matherne par acte passé au greffe de cette paroisse le vingt huitième jour du mois d'Août mil huit cent un et les deux autres arpens proviennent au dit sieur vendeur, d'un échange qu'il a fait avec le sieur Jean Berry, par acte passé à notre greffe le troisième jour du mois de Juin de l'année mil huit cent.

2o. Toutes les bêtes à cornes qui pourront se trouver sur la dite habitation ou dans les environs, qui se trouvent étampés A. T. ainsi que les écrois qui pourront en provenir à l'exception cependant de deux vaches étampés comme ci dessus, l'une noire que le dit Tregre déclaré avoir vendue au Sieur Alexandre Chasset et l'autre rouge qu'il a vendue au Sieur Jacques Chaurin.

Par convention expresse le sieur vendeur se réserve tous les cypres qui sont à terre dans ce moment sur l'habitation qu'il a vendue aux dits Sieurs McDonogh, jr. & Co. ainsi que la faculté d'abatre à sa commodité cinquante cypres à son choix.

Cette vente est faite avec les reserves stipulées pour le prix et somme de six mille gourdes formant le prix convenu entre les parties laquelle somme sera payable comme suit, savoir: quinze cents piastres comptant que le dit Sieur Trègle reconnait avoir reçue; quinze cents piastres le quatrième jour du mois de Mars mil huit cent treize, quinze cents piastres le quatrième jour du mois de Mars mil huit cent quatorze, et finalement quinze cents piastres payables le quatrième jour du mois de Mars de l'année mil huit cent quinze; ce qui forme en total la susdite somme de six mille piastres pour laquelle le dit sieur vendeur s'oblige par le présent, de donner bonnes et valables quittances et décharges lors que le dernier paiement aura été effectué entre les mains du dit vendeur, en conséquence de ce que dessus et d'autre part les dits sieurs acquéreurs consentant que la dite habitation restera spécialemente hypothéqué iusqu'au parfaite paiement.

Fait et passé en notre office à la paroisse St. Jacques, comté d'Acadie, le quatrième jour du mois de Mars, de l'année mil huit cent douze, et de l'indépendence Américaine la trente sixième année, en présence de sieurs Martin Dubourg et Duradon Bringier, tous deux témoins requis et domiciliés dans cette paroisse, lesquels ont, ainsi que les parties, signé avec nous juge susdit, après lecture. Ainsi signé à la minute. ANTOINE TREGRE.
JOHN McDONOGH, Jr.
Témoin JNO. MARTIN DUBOURG,
ML. DURADON,
Témoin N. BRINGIER, et
D. TUREAUD, *Juge.*

Pour copie conforme à l'original resté déposé dans les archives de cette paroisse pour recours. En foi de quoi j'ai délivré le présent signé de ma main et scellé du sceau de mon office, à la paroisse St. Jacques, comté d'Acadie, le sixième jour du mois de Mars, de l'année mil huit cent douze, et de l'indépendence Américaine la trente sixième.

[L. s.] Signed, A. D. TUREAUD, *Juge.*

[1.]

De 10 Agosto, 1790.
No. 290: 1353 arps.

Señor Gob'r. G'ral:

Pedro Le Bourgeois y Joseph Gilard vecinos de esta ciudad con el debido respeto ante v. s. nos presentemos y decimos que hemos comprado del caballero Regidor de Juan Arnul, una habitacion situada a quinze leguas de esta ciudad ria arriba y de este mismo lado, compuesta de catorce arpanes y catorce toesas de frente con la profundidad ordinaria de cuarenta, y como quiera q'l d'ha profundidad no basta para el numero de negros que pendumos sobre la referida habitacion se ha deservir v. s. concedemos, una segunda profundidad de quarenta arpanes de tierra detras de las d'hos primeros y sobre las mismas lineas de la nunciada habitacion. Gracia que esperamos en justicia de la distribution que v. s. administra.

Nueva Orleans, 18 de En'o, de 1787.

Signed, LE BOURGEOIS.
GILLARD.

Nueva Orleans, 19 de Enero de 1781.

El agrimensor g'ral de esta provincia establecera estas partes sobre las quarenta arpanes de segunda profundidad que solicite y sobre los mismos tramites de la habitacion que poseen. Cuyas diligencias me remitira para proveer a los interesados del correspondiente titulo en forma.

(Signed,) ESTEVAN MIRO.

I certify the foregoing petition and order of survey to be true copies of the original documents filed, bundle marked letter H, amongst the records in the surveyor general's office under my charge.

In testimony whereof, I have hereunto set my hand and seal of office, in the city of New Orleans, this 15th day of April, 1839th year of our Lord, and the sixty-third of the independence of the U. S. of America.

(Signed,) L. BRINGIER, *Surveyor Gen'l.*

[3.]

LAND OFFICE, *Eastern District of Louisiana.*

No. 444. L. H. Guerlain, as agent for the Eastern Shore of Maryland Louisiana Company, claims a second depth extending back quite to the lake Maurepas, and lying immediately behind a front or first depth, which we have already confirmed to him in No. 444 among the confirmed claims.

The claimant states that this land is part of a tract sold by the Colapissas nation of Indians, in the year 1739, to one Delille Dupard, from whom the aforesaid company claims by successive transfers, and pretends that the land, whilst the property of said nation of Indians, had a depth extending back to lake Maurepas, but of this fact there is no other evidence than the deposition of the late surveyor general of the province, stating that he heard his father, who served as interpreter at the sale made by the Indians, say that the land sold was to extend back to the lake Maurepas. The sale is stated to have been a verbal one; but there is no certain evidence that a sale has been made as stated by the claimant, nor is there any act of government respecting it, nor are there any defined limits given to the land by the pretended sale; we are, therefore, of opinion that this claim ought to be rejected.

(Signed) JOSHUA LEWIS,
P. GRYMES, *R. E. D. Or. T.*
THOS. B. ROBERTSON.

REGISTER'S OFFICE, *New Orleans.*

I, P. A. St. Martin, register of the land office at New Orleans, do hereby certify the foregoing to be a true copy of one of the "*decisions*" (two in number) of the late board of commissioners for the eastern district of the late territory of Orleans on the claim of L. H. Guerlain, agent for the Eastern Shore of Maryland Louisiana Company, No. 444, as taken from the "decisions on land claims" of said board on record in this office. In faith whereof, I hereunto subscribe my name, this 19th day of April, 1839.

(Signed) P. A. ST. MARTIN, *Reg'r.*

[4.]

Certified copy of the confirmation to John McDonogh and Shepherd Brown, being the middle portion of the land said to be granted Delille Dupard.

No. 368. Jno. McDonogh, jr., and Shepherd Brown claim a tract of land situate on the east side of the river Mississippi, in the

county of Acadia, containing eighteen arpens, three toises and three feet in front, and eighty arpens in depth, opening 20° 7′ towards the rear, and bounded on the upper side by land of Marianne Lanoix, and on the lower by land of Ambroise Garidelle.

In the year 1791, Peter Le Burgeois, who was proprietor of part of the land, to wit: sixteen arpens, eight toises, and three feet front, on the ordinary depth, obtained from the Spanish government a complete grant to the second depth of forty arpens to the aforesaid front. The complement to the front of the tract now claimed, viz: one arpent and twenty-five toises, with forty arpens depth, was regularly granted by the same government in the same year to the said Le Bourgeois; the board do hereby confirm the title to the whole claim, except the second depth claimed to the one arpent and twenty-five toises as aforementioned, which they reject.

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, 12*th April*, 1839.

The foregoing is a true copy from the record book in this office of claims, confirmed by the board of commissioners of the south-eastern district of Louisiana, page 195.

(Signed) H. J. WILLIAMS,
Surveyor General, La.

[5.]

GENERAL LAND OFFICE,
Washington, *July* 30*th*, 1830.

SIR: Your letter of the 8th instant is received, together with the township maps as stated therein. Townships 11, of R. 15, T. 12, of Rs. 19 and 20, T. 13, of R. 20 east, S. E. district, Louisiana, are herewith returned, they not being certified as having been *examined, compared with the field notes in your office, and approved*, and in consequence of many of the lines not representing the courses and distances. If the above township surveys which have been sent, and now on file in this office, be erroneous, they should be substituted by correct copies from the field notes, examined and certified by you, and copies sent to the register at New Orleans.

There appears a little incongruity (on comparison with the township map) in the following clause of your letter of the above date, which you will please explain.

"Claim of Benjamin Goodwin and wife, in township 3, R. 7 west, (district east of the island of New Orleans,) extends in S. 3, R. 8 W., and covers sec. 44, and 65.28 acres; section 18 contains public land 54."

When correction is to be made in a township map on file here, it is necessary that you should send a diagram with your approval, when the draughtsman of this office can transfer it to the township map.

It is very desirable that the balance of the surveys paid for by Mr. Turner, your predecessor, should be forwarded to this department with the least possible delay. Your letter, dated 7th inst., is also received.

I am, very respectfully,
Your obedient servant,
JNO. M. MOORE,
Ch. Cl'k and Acting Commissioner.

JOSEPH DUNBAR, ESQ., *Surveyor,*
Washington, Mississippi.

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, 24th April, 1839.

The foregoing is a true copy of a letter recorded on pages 240 and 241, of letter book A of the records of this office.

(Signed) H. J. WILLIAMS,
Surveyor General, La.

[11.]

DONALDSON, *Oct. 25th,* 1830.

DEAR SIR: At the request of Mr. Watson, who is now in ill health, I reply to your note of the 22d. He thinks that he will be able to meet you, at the place appointed, on the first Tuesday in next month. Should you not hear from him, you will be sure to find him at the place. He will not be able to procure hands to assist him in this place.

Respectfully, your obedient servant,
A. F. RIGHTOR.

JNO. MCDONOGH, ESQ.
JNO. MCDONOGH, ESQ'RE, *New Orleans.*

[14.]

Dr. Jno. McDonogh,

To Jno. Watson, Dr.

For surveying, measuring, and marking a line, nineteen miles in extent, from the river Mississippi to the Amite river, through Mr. Shephed - - - - $133 00

Received payment,
(Signed) JNO. W. WATSON.
NEW ORLEANS, *November 26th,* 1838.

No. 368.

John McDonogh, jr. and Shepherd Brown claim a tract of land situate on the east side of the river Mississippi, in the county of Acadia, containing eighteen arpens, three toises, and three feet in front, and eighty arpens in depth, opening 20° 7′ towards the rear, and bounded on the upper side by land of Marianne Lanoix, and on the lower by land of Ambroise Garidelle.

In the year 1791, Peter Le Bourgeois, who was proprietor of part of this land, to wit: 16 arpens, 8 toises, and three feet front on the ordinary depths, obtained from the Spanish government a complete grant to the second depth of forty arpens to the aforesaid front of the tract now claimed. 1 arpent and 25 toises, with 40 arpens depth, was regularly granted by the same government, in the same year, to said Le Bourgeois; the board do hereby confirm the title to the whole claim, except the second depth claimed to the one arpent and twenty-five toises as aforementioned, which they reject.

REGISTER'S OFFICE, *New Orleans.*

I, P. A. St. Martin, register of the land office at New Orleans, do hereby certify the foregoing to be a true copy of the "*Decisions*" of the late board of commissioners for the eastern district of the late territory of Orleans on the claim of Jno. McDonogh, jr. and Shepherd Brown, No. 368, as taken from the "Decisions on Land Claims" of said board on record in this office.

In faith whereof, I hereunto subscribe my name, this 18th day of April, 1839.

(Signed) P. A. ST. MARTIN, *Reg'r.*

LAURENT MILLAUDON & al.
vs.
JOHN MCDONOGH.
} Order—May 2d, 1839.

This cause, continued from yesterday, came on again to-day for trial, when, after hearing argument of counsel on behalf of Rightor called in warranty, the court took the same under consideration.

Judgment and reasons filed, May 20th, 1839.

This suit, in its commencement, was a personal action for damages for a quasi offence, to wit, a slander of plaintiffs' title to land described in the petition.

In its form, this action was similar to that given by the 46th law of the 2d title of the 3d partida.

The plaintiffs alleged that they had purchased a tract of land, entered into possession, and intended to have divided it into smaller portions, and sold it at auction for the purpose of effecting a partition among themselves; but were prevented from doing so by the acts of defendant, who publicly declared that he himself was the owner of said tract; that the plaintiffs requested him to desist from slandering their title, or to bring suit for the land; but that defendant would do neither the one thing nor the other.

They conclude by praying that defendant may be cited to produce his title, and, in case he should not do so, that he be enjoined from pretending any title to the land, and pay $50,000 damages for his tortious acts in the premises.

The defendant denies all the allegations of the petition, sets up title in himself to the said land, and claims, by way of reconvention, that the land be adjudged to belong to him.

The plaintiffs answer the reconventional demand by the general issue, and call A. F. Rightor their vendor in warranty of their title, against whom they also claim damages, in case of defendant succeeding in his claim, because they allege said Rightor was aware of defendant's claim to the land at the time of the sale, and concealed that fact from his vendees.

Rightor answers the call in warranty:

1st. By the general issue.

2d. Denying that the plaintiffs are entitled to the remedies which they ask in the petition of warranty.

3d. Alleging that plaintiffs had a perfect knowledge of defendant's pretensions when they purchased, and have no right to call Rightor in warranty on account of the same.

4th. Denying that defendant has any claim to the property, and requiring him to institute a suit.

This answer concludes by joining in the prayer of plaintiffs for judgment against the defendant.

A jury was prayed for, but by agreement of parties the question of titles was submitted to the court, reserving the questions of damages for a jury.

The issue in this case is remarkably complicated, and the first question to be determined is, upon which party lies the burden of proof as to the title of the land?

The defendant insists that the burden of proof as to title is upon his adversaries, the plaintiffs and the warrantor; but I have had no difficulty in coming to a contrary conclusion.

The demand of plaintiffs in their original petition cannot be said to be a petitory action; it is destitute of the first requisite of that action, not being brought against a party in possession.—C. P. 43. On the contrary, the plaintiffs allege themselves to be in possession, but that they are disquieted and prevented from making a legitimate profit out of the land so possessed, by the words and acts of the defendant, for which cause they ask for damages, and that defendant be enjoined by the judgment of court from setting up claim for the future to said land. The defendant, it is true, denies the possession of plaintiffs; and had he rested here, the question between the parties would have been limited to the enquiry, whether the plaintiffs possessed as alleged, and according to the provisions of article 49 of the Code of Practice.

But the defendant went further; he sets up title in himself, and institutes a suit in reconvention, demanding that the property be adjudged to belong to him. This reconvention or cross action, which by our practice is consolidated with the principal or original suit, is clearly a petitory action, imposing upon Mr. McDonogh the obligations of proof, essentially prerequisite to the success of such an action; by article 44 of the code of practice, so fully indeed does this seem to have been understood by the parties, that the whole of the subsequent proceedings are in accordance with the idea of the

original defendant having become plaintiff, and vice versa. The plaintiffs cite their vendor Rightor, in warranty, to defend their title according to the rules prescribed (c. p. 379, and se. 9) for real warranty. Every word in the code of practice, on the subject of warranty, assumes that the warrantor is defendant in the issue. Many decisions of the Supreme Court have settled the doctrine that the last warrantor is the real defendant, not only as against the party who has cited him, but as against the original actor.

The original actor in the present suit, in the only part of the case in which Rightor is concerned, (the reconvention,) both in substance and in form, is McDonogh, whose pretensions he is called upon by his vendees to resist.

On this point of the *onus probandi*, we have a leading case in the books, that of Livingston *vs.* Hermann, reported in 9th Martin.

The petition in the case at bar, seems to have been copied from that of the case of Livingston *vs.* Hermann. We find in consulting Judge Workman's argument for plaintiff in that case, (p. 660,) that it was contended by that able counsel, that the defendant in such a suit becomes the actor. And this position was only denied by the counsel on the opposite side, because in that case, the defendant claimed nothing more than to be dismissed, (pages 695, 697.)

The court confirmed the doctrine as laid down by Livingston's counsel in the most explicit terms, (page 715 of the report.)

The defendant McDonogh, thus holding the affirmative of the proof, has exhibited in support of his claim to the land in controversy, a French grant to Pierre Joseph Delille Dupard, senior, dated April 3d, 1769. The grant calls for natural boundaries, to wit: the river Mississippi and lake Maurepas, of the land where formerly were two villages of Colapissa savages, situated about sixteen leagues above the city, and on the same side of the river, measuring from the plantation of Allemand to that of Joseph Lacomb, a free mulatto. In conjunction with the grant, is offered in evidence by defendant, a plat or plat of a body of land having a small front on the Mississippi, by a very large one on the river Amite, composed of three subdivisions, designated by the numbers 1, 2, and 3, each of which are certified by the surveyor as containing many thousand acres. This plan, dated July 8th, 1812, signed J. T. Potier, styling himself a sworn surveyor, appointed by the Surveyor General of the United States, Mr. Briggs, purports to be an extract of the surveying operations of said Potier, in the years 1806, 1808, and 1812, and to be a plat of land sold by the Colapissa Indians to Mr. Delille Dupart.

To this plan by itself and unsupported by proof, of course no authority attaches, as there is nothing about it which clothes it with an authentic character, offered in connexion with the French grant abovementioned, and as a delineation of the land conceded by the colonial authorities to Mr. Delille Dupart. I am struck at the threshold of investigation by the fact, that Potier's plan does not even purport to be based upon that concession.

The most cursory examination has satisfied me that the plan does not follow the calls of the title set up by defendant. The grant to Delille Dupart calls for lake Maurepas as its boundary in the rear; the plan of Potier is bounded in the rear by the river Amite, and the side lines are run in such a direction, that their prolongation would carry them further and further from lake Maurepas, which is left to the right of the tract in going from the Mississippi.

There is, it is true, to the right of the lower red shaded boundary line, a dotted line that strikes the lake; and my attention was called by the defendant to this line. But it is evident that the red shaded line in question, and not the dotted line, is meant by the draughtsmen to designate McDonogh's boundary. In the first place, there is a corresponding red shaded line on the upper side of the plat; secondly, the courses and length of the red shaded lines are marked on the plan, as well as the superficial extent of the land, included between them, which is not the case with regard to the dotted line; and lastly, the space between the red shaded line, terminating on the river Amite, and the dotted line, terminating on lake Maurepas, bears the name of a different proprietor, to wit: Mr. Alphonse Haydel or Fonteneau.

Which circumstances satisfy my mind that the space inclosed in the dotted line, was intended by the surveyor to designate the plantation of the adjacent proprietor in descending the river, and by no means to designate the actual boundary of the survey of Mr. McDonogh's land.

I hold it to be well established law, no less than the dictate of plain reason, that when a grant or conveyance refers to natural boundaries, those are to be sought for, to the disregard of any maps or plans, which are at least only pictures or graphic representations of the property granted or conveyed, and are only subsidiary to the title; they cannot control the title; and so far as they differ from its calls, instead of aiding in the correct settlement of disputed claims, they are only calculated to mislead.

From an inspection of a large map of the circumjacent country, given in evidence by the defendant, it was obvious that it was possible to have located the grant of Delille Dupart between parallel lines, terminating at one end on the Mississippi, and at the other on lake Maurepas, according to its calls. Nothing in the evidence shows me what was the course of Allemand and Lacombe's side lines, mentioned in the grant, or their extent.

I conclude, in the absence of such evidence, that Delille Dupart's grant should have been located between parallel lines.

At all events, the whole back or rear lines of the grant should have been on Lake Maurepas; now the grant of Delille Dupart, surveyed and laid off according to the calls of the grant itself, would not interfere with the land held by plaintiffs under the deed from Rightor, as is shown by the evidence, or if it interfered at all, that interference would be so trifling as not to be worth mentioning.

I have, therefore, come to the conclusion that the defendant has failed to make out a title to the land mentioned in the petition of plaintiffs, and claimed by defendant in his petition in reconvention; and having so failed, that the plaintiffs must be discharged from his demand, under the 44th article of the code of practice.

It is proper here to remark that various arguments have been urged against both the validity and authenticity of the grant of 3d April, 1769 to Delille Dupard.

Those arguments I do not deem it material to review, from the conclusion that I have come to, upon the effect and bearing of that grant upon the present case, allowing it to be authentic and to have been made by a legitimate authority.

There are two other points made by defendant, which I shall dispose of very briefly.

It is said, on the face of a copy of the plan of Pothier produced by defendant from the land office of this district, that the claim of defendant to the land in dispute, as figured upon that plan, was confirmed by act of Congress of May 11th, 1820.

If this were true the defendant might be considered as invested with the title of the United States to that land, which would be good until an older and better title was shown.

But an inspection of the evidence and of the act of Congress has satisfied me that the confirmation spoken of never was made, the act of Congress alluded to having no bearing upon McDonogh's claim in question.

The defendant has also offered a good deal of evidence of possession and cultivation of land on the Amite and other streams in the neighborhood between thirty and forty years ago. But possession to supply the want of a title must have the qualities, characteristics, and duration prescribed in articles 3,453, 3,465, and 3,471 of the Louisiana code, and in article 38 of page 482, and article 66, of page 486, of the code of 1808. There is no proof in the record of the actual, undisturbed, and continuous possession, *animo domini*, required by these laws, by the defendant of the very extensive tract of land to which he sets up a claim in this suit, or indeed of any portion of it.

It is, therefore adjudged and decreed, that there be judgment in favor of the plaintiffs; that they be quieted in their possession of the land mentioned in their petition against the claims and pretensions of the defendant to the same; that the defendant be enjoined utterly to desist from such claims and pretensions; and that he pay costs.

And the questions of damages are reserved for decision by a jury, under the agreement of the parties on file.

(Signed,) A. M. BUCHANAN, *Judge.*

Petition of Appeal, filed June 3d, 1839.

LAURENT MILLAUDON & al.,
vs.
JOHN MCDONOGH.

To the Hon. A. M. Buchanan, Judge:

The petition of John McDonogh respectfully represents:

That there is error in the judgment rendered in the above entitled case, whereby he is aggrieved.

Wherefor he prays an appeal may be allowed him, on giving security for costs.

(Signed,) GEO. STRAWBRIDGE.

Order.

An appeal is allowed in this case, according to law, returnable in the Supreme Court, on the fourth Monday in July next, on the appellant giving bond, with Geo. Strawbridge, his security, in the sum of three hundred dollars, with condition as the law directs.

(Signed,) A. M. BUCHANAN, *Judge.*

June 3d, 1839.

Bond.

Know all men by these presents, that we, Jno. McDonogh, principal, and Geo. Strawbridge, surety, are held and firmly bound unto Laurent Millaudon, J. Slidell, and others, and A. Rightor, their executors, administrators, and assigns, in the sum of three hundred dollars, for the payment whereof we bind ourselves, our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated in the city of New Orleans on this first day of June, in the year of our Lord one thousand eight hundred and thirty-nine.

Whereas the above bounden John McDonogh has this day filed a petition of appeal from a final judgment rendered against him in the suit of Laurent Millaudon and others, and Rightor in warranty, in the first judicial district court of the State of Louisiana, on the 20th day of May.

Now the condition of the above obligation is such, that the above bound John McDonogh shall prosecute his appeal, and shall satisfy whatever judgment may be rendered against him, or that the same shall be satisfied by the proceeds of the sale of his estate, real or personal, if he be cast in the appeal; otherwise, that the said Geo. Strawbridge, surety, shall be liable in his place.

(Signed,) JOHN McDONOGH, [L. S.]
GEO. STRAWBRIDGE. [L. S.]

STATE OF LOUISIANA, *First Judicial District Court.*

I hereby certify that the above and foregoing two hundred and fifty pages do contain a transcript of all the proceedings, as well as

of all the documents and all the testimony adduced on the trial of the cause, wherein Laurent Millaudon, Jno. Slidell, and al., were plaintiffs, and John McDonogh is defendant, (except the plats and maps filed and numbered as documents Nos. 1, 21, 23, 33, 37, 42, 43, 45, 45, and [2,] [9,] and [13,] [15,]) instituted in this court, and now on the records thereof, under the No. 16,911.

Omitted.—Two maps not numbered.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at the city of New Orleans, on this 26th day of July, in the year of our Lord one thousand eight hundred and thirty-nine, and in the sixty-fourth year of the independence of the United States.

(Signed) JNO. L. LEWIS, *Cl'k.*

I hereby certify the foregoing transcript of the record of the case therein mentioned contains all the evidence adduced by the parties on the trial of the cause in the first instance, (except the documents mentioned in the foregoing certificate.)

July 26th, 1839.

(Signed) A. M. BUCHANAN, *Judge.*

On the back of the transcript of appeal is written as follows:

No. 16,911. Laurent Millaudon and al., appellees, vs. John McDonogh, appellant. Appeal—Jno. Slidell and J. T. Preston for appellees. Jno. R. Grymes and G. Strawbridge for appellant. No. 3734. Supreme Court, filed October 29th, 1839.

(Signed) A. CUVILLIER, *Cl'k.*

Extract from the Minutes of the Supreme Court.

LAURENT MILLAUDON & al., appellees,
3734. vs.
JOHN MCDONOGH, appellant. } March 31st, 1841.

This cause was called for trial, and the arguments having lasted until the end of the sitting of the day, were ordered to be continued until Tuesday next, 6th April.

L. MILLAUDON & al., appellees,
3734. vs.
JOHN MCDONOGH, appellant. } Order of Monday, April 5, 1841.

On motion of Isaac T. Preston, esq., of counsel for A. F. Rightor, it is ordered that Joseph Genois, esq., register of the land office in New Orleans, produce in open court, on Tuesday, the 6th of April, 1841, at 9 o'clock, A. M., on the trial of this cause, the book in his office containing the abstract of French concessions of land in Louisiana.

LT. MILLAUDON & [al.] appellees,
3734. vs.
JOHN MCDONOGH, appellant. } Order of Tuesday, Ap'l 6, 1841.

The arguments in this case were this day resumed, and having

lasted until the end of the sitting of the day, were ordered to be continued until to-morrow.

LAURENT MILLAUDON & al., appellees, 3734. vs. JOHN MCDONOGH, appellant. } Order of Wednesday, April, 7th, 1842.

The arguments in this case were this day resumed and closed; whereupon the court took the same under consideration.

Opinion delivered by the Supreme Court.

SUPREME COURT OF THE STATE OF LOUISIANA.

The court met, Monday, April 26th, 1841.

Present, their honors HRY. A. BULLARD, A. MORPHY, E. SIMON, and RICE GARLAND. His honor Judge MARTIN is absent on account of indisposition.

LAURENT MILLAUDON & al., appellees, 3734. vs. JOHN MCDONOGH, appellant. } Appeal from the District Court for the First Judicial District.

The plaintiffs allege that they, with Henry T. Williams and Charles F. Zimpel, purchased a large tract of land of A. F. Rightor, being a portion of a claim or grant generally known as the Houmas, in the parish of Ascension. They took possession with the intention of dividing it into smaller tracts and selling them at auction, to effect a partition; but were prevented from doing so by the acts and conduct of the defendant, who publicly declared that he was the owner of a large portion of the land, and slandered their title. They say they have requested him to desist his slanders, or to bring suit to assert his title, which he declines. They pray that he be compelled to set forth his title, if he has any, and if he fail to do so, that they be quieted in their possession against his claims and pretensions; that he be enjoined and ordered to desist therefrom; and, further, that they have judgment for fifty thousand dollars damages for the tortious acts of the said defendant.

The defendant pleads a general denial; then specially that the plaintiffs have no title; he further avers he is the true and lawful owner of the land by good and sufficient titles, and concludes by a demand in reconvention, in which he prays the plaintiffs may be cited to answer; that they be compelled to produce and exhibit their titles, and that he be quieted and maintained in his possession of the land.

The plaintiffs, for answer to this reconvention demand, plead the general issue, and called on A. F. Rightor, as their warrantor, to maintain and defend their title against that of McDonogh. Rightor answers the call in warranty by a plea of the general issue; secondly, that the plaintiffs are not entitled to the remedies against him, which they claim; thirdly, that they had a perfect knowledge of the character and extent of the defendant's claim when the

purchased, and, therefore, have no right to call on him as warrantor. He further says the plaintiffs have a good and sufficient title; that McDonogh has none at all; and if he has, he is bound to sue the plaintiffs to establish it, or abandon his claim. He prays that McDonogh be compelled to exhibit his title; that it be rejected; and he concurs in the prayer of the plaintiffs against him, (McDonogh.)

It is further prayed that the cause be tried by a jury; but, subsequently, the parties agreed to submit the question of titles to the court, reserving the damages to a trial before the jury.

The issues in this case are somewhat complicated; it has been argued at great length and with eminent ability. A variety of questions have been raised by bills of exceptions, which, with the evidence, have swelled the record to a great size; and both plaintiffs and defendant evidently desire the court to go much farther into an investigation of, and decision upon, their respective titles, than is necessary for the settlement of the controversy between them. We think we can see difficulties enough likely to arise out of both these claims, in which persons not now before us may be interested. We shall not anticipate the points that may hereafter be made, and will now only decide what is indispensable to the adjustment of the difficulty between the parties before us.

The first question is, upon which party lies the burden of proof as to the title of the land. The defendant says, it rests upon his adversaries and their warrantor. We think differently. The reasons given by the district judge, in his judgment, have not been refuted, and are, in our opinion, unanswerable. He says, the demand of the plaintiffs in their original petition does not constitute a petitory action. It is destitute of the first requisite of that action, not being brought against a party alleged to be in possession.—C. P., art. 43. On the contrary, the plaintiffs allege they were in possession, and are disquieted and prevented from making a legitimate use and profit out of their possession and title, by the words and acts of the defendant; for which cause they ask for damages, and that he be enjoined from setting up any claim for the future, unless he do it at once, either in the present action or by another suit. It is true, the defendant says he is in possession also; and had he rested his case upon that allegation, it is possible the question would have been limited to that inquiry, according to art. 49 of the Code of Practice. But the defendant has gone further; without excepting to the form of the action, he comes up to the mark, sets up title in himself, and institutes a reconventional demand, asking that the property be adjudged to him. This reconventional or cross action, which is by the Code of Practice consolidated with the principal or original suit, is clearly petitory, and imposes on McDonogh the obligation of making the proof requisite to sustain his demand. So fully does this seem to have been understood by the parties originally, that all the subsequent proceedings are in accordance with the idea of the original defendant having become

pro hâc vice the plaintiff. The plaintiffs cite their vendor Rightor in warranty to defend their title, according to C. Practice, *article* 379, *et sequitur*. Every provision of that Code assumes that the warrantor is a defendant in the issue.

There are various decisions of this court, and we hold it well settled, that the last warrantor is the real defendant in a suit against his vendees—not only against the party who cites him, but more particularly against the original actor. That person in the present suit, so far as Rightor is concerned, both in substance and form, is McDonogh, whose pretensions he is called upon by his vendees to resist. This question has been heretofore decided by this court, in 9th Martin, 556, and 11 L. R. 188; and we see no reason for changing the precedents.

McDonogh, holding the affirmative of the issue, offered in evidence a certified copy from the register or record of complete grants in the land office in New Orleans, by which it appeared, that on the 3d of April, 1769, the French Governor of Louisiana granted to Pierre Joseph Delille Dupart, père, a tract of land having thirty arpens front on the Mississippi river, with all the depth which might be found to Lake Maurepas, of the land where formerly stood two villages of the Collapissa Indians, situated about sixteen leagues above the city on the same side, to take from the plantation of a person named ——— Allemand, and join that of a free mulatto named Joseph Lacomb. The usual stipulations and reservations are made in this grant. To its reception in evidence various objections were made, which were overruled, and bills of exceptions taken by Rightor, and the grant attached, after it was received as being a nullity on various grounds. It is not necessary in the present case to decide any of these questions.

The counsel for Rightor, on whom devolved the whole defence of this case, (the plaintiffs not appearing at all, further than to join issue with McDonogh,) insists that, supposing the grant to Delille Dupard to be genuine, given by competent authority, and all the rights of the grantee vested in his opponent, (all of which he specially denies, however,) *that* then this action cannot be maintained; because he says, being for a certain front and depth, and it not being specified that the lines are to open or close in any manner, it must be located by parallel lines; and the evidence shows conclusively that, if so located, it will not touch any portion of the land claimed by the plaintiffs. But the counsel for McDonogh insist, the lines should open upwards of twenty degrees, and endeavor to prove that it has been located, and should so continue, as to let the lower line touch the western shore of Lake Maurepas, and the upper running westerly, strike the Amite river at a distance of about nineteen miles from the Mississippi, and nearly that distance from the point where the lower line touches the lake. Nothing is said in the grant about the Amite river, nor is it shown that the lines should open in this manner, so as to include the sites of the two

Indian villages mentioned in it. If this location were to be sanctioned, the Dupard claim would cover somewhere about 100,000 arpens of land.

To sustain their position, the counsel for McDonogh insist strenuously on what they call a plat made by Don Carlos Trudeu in 1790, which they say indicates the partition of the tract among the heirs and legal representatives of Delille Dupard, as on it, it is said the lines open in the rear as claimed. This document was objected to as evidence by the counsel of Rightor, but received by the court, with the exception of a written memorandum on it, and a bill of exception taken, which we consider it unnecessary to decide on, as we think the paper does not prove what is alleged, nor is it entitled to any weight as evidence. It is neither a survey or plat, or a copy properly authenticated, showing how the partition was made. On the face, it is apparent a partition had been made previously, and there is evidence in the record showing it must have been made several years previous, as one of the heirs sold her portion to Fonteneau in 1784. This plan is evidently nothing more than a sketch made by Trudeau to represent the front of the tract, which it seems had increased from thirty arpens front, in 1769, to upwards of forty arpens, in 1790. There is not about it that particularity and neatness which marks the operations of the former surveyor general of the province of Louisiana. The lines drawn seem to be experimental or provisional. None of those running out from the river have any length marked, and out of fifteen lines drawn or dotted, but six have any bearing indicated, and that is different on each of them. The statement in writing, on the face of the sketch, indicates its true character. It is not in the form of a procès verbal, but is stated to be a note which says that the land belonging to the succession having been asserted to have thirty-five arpens front, according to the declarations of the parties interested, and conformably to the writing and sales passed by the heirs in favor of Henry Fonteneau, Gelar Pedro Le Bourgeois, Alexandre Lange, mulatto, and Don Francisco Dupare, the son, the only one who had not sold his portion; but from the verification that was had in the month of March, 1787, repeated this day, the 10th of August, in the current year, the same was found to contain forty arpens and twenty-three toises front, on the Mississippi, measured upon the lines marked (punteas) a, b, c, &c., &c. This is dated the 10th of August, 1790, and signed by Carlos Trudeau. In no part of this note or statement does he assume any official character. If this plan or sketch was of any validity at all, it would perhaps prove more for the defendant than he wishes, as it fixes this claim in the parish of St. John the Baptist, instead of the county of Acadia. In connection with this plan, we find another in the record, which is authentic, that differs from it in various particulars. It appears that Henri Fonteneau, in 1784, purchased of Mad'e Macnamora, one of the heirs of Delille Dupare, her portion of the land,

being one-fifth. In the act of sale made in presence of the commandant of the port or parish of St. John the Baptist, the land is described as a tract in that parish, having seven arpens front on the river, by the ordinary depth, (profondeur ordinaire.) Not a word is said about the lines extending to the lake, or their opening. On the 24th of September, in the year 1790, Trudeau makes a survey of this land, places it in the parish aforesaid, gives it a front of eight arpens, four toises, and three feet front, and states the lower side line to run north eight degrees and fifty minutes east, and the upper, north ten minutes west, according to the needle, without attending to the variation. Norte ocho grados cinquenta minutas este de la actual aguja sin attendes a la variacion. This varies widely from other plans and surveys submitted to us; it in fact differs from any other plat that we see in the record, and it is the only authentic one of the lower portion of the Dupare claim made by authority of the Spanish Government. We have no other evidence of any well founded claim to an opening towards the rear, until McDonogh and Brown became interested in the land. They purchased upwards of eighteen arpens front, by eighty in depth, of Pierre Le Bourgeois, the 3d of March, 1806; and in the act of sale there is nothing said of the lines extending beyond that depth, or opening in any manner; but it is mentioned that two plats of survey exist, and were delivered by the vendor to the purchasers, paraphed by the notary, neither of which are produced.

When the inventory of Delille Dupare's estate was made in 1776, the land is represented as extending to lake Maurepas, but not a word said of there being an opening towards the rear. Sometime after McDonogh and Brown purchased of Le Bourgeois, they presented the claim for confirmation to the commissioners of the United States, in the eastern district of Louisiana, and represented it as having a front of eighteen arpens three toises and three feet front, by eighty arpens deep, and having an opening of twenty degrees and *seventy-one minutes* towards the rear, and with the exception of a small portion, it was confirmed to that extent. American State Paper, vol. 2, public lands 332. This claim was based upon a grant of the Spanish Government to Le Bourgeois, nothing being said about a grant to Dupare.

Another portion of this claim was derived from Dupare, through L. H. Guerlain, agent of the Eastern Shore of Maryland Louisiana Company. We have carefully examined this branch of the title, and find nothing to prove the claim had any opening until sometime after it was recognised by the United [States.] In the 2d vol. Am. State Paper, relating to public lands, p. 297, this claim was presented for confirmation, and described as "situate on the east side of the Mississippi river, in the county of Acadia, containing ten arpens and seven toises in front, and a depth extending to lake Maurepas, bounded on one side by McDonogh and Brown, and on the other by land of Antoine Tregle." Not a word is said about an

opening. The claim is confirmed for a depth of forty arpens, and rejected for the remainder. On pages 300 and 343 of the same volume, it will be seen these claims were again under the consideration of the commissioners, and rejected. An examination of the title [of the] remaining portion of this claim, which comes through Tregle, establishes the fact that the idea of the Dupare grant opening towards the rear was of modern origin. It is certain that McDonogh did not consider it as extending to the Amite river previous to 1806, as he was himself established on that stream some years previous, under a different title, or as a trespasser.

We have been thus particular in the examination of all these circumstances, to show that the effects of the subsequent action on the claim, are not such as contended for by the defendant.

In the American State Papers vol. 3d, relating to the public lands, p. 254, and from the record, we ascertain that McDonogh & Co. again applied to the register of the land office and receiver of public moneys in New Orleans, to report on this claim, under the provisions of the act of Congress passed the 27th January, 1813, entitled "An act giving further time for registering claims to land in the eastern and western district of the territory of Orleans, now State of Louisiana." It is described as "a tract of land situated in the county of Acadia, on the east shore of the Mississippi, sixteen leagues above New Orleans, containing thirty-two arpens front, with a depth extending as far as lake Maurepas; this tract has formerly been claimed before the board of commissioners, and the depth extending beyond forty acres rejected by them for want of evidence of title; but the claimants have since produced a complete French title for the whole quantity claimed, in favor of Delille Dupare, under whom they claim, dated the 3d of April, 1769." His claim is placed by the register and receiver in the first class, which they say comprehends such claims as stand confirmed by law. It will be observed that the grant to Delille Dupare, is now spoken of for the first time; his claim, whenever mentioned previously, was described as one derived from the Collapisa Indians, yet no mention is made in this report of its having any opening in the rear. That difficulty is met by the defendant by the production of a paper which he says is a survey and plat of his claim made by F. V. Potier, a United States surveyor, which it is certified was offered as part of the evidence in support of the claim, when last presented for the action of *the action of* the United States commissioners, and it is alleged that as the claim was confirmed, it must necessarily be so to the extent mentioned in the plat, it being a portion of the evidence. Admitting for a moment that this plat is valid, we are not prepared to say that the proposition is true to the extent stated. One piece of evidence does not fix the extent and character of a decision, but we must look to all that is offered, and the amount demanded. There is nothing in what is said by the register and receiver, which authorizes a belief that any opening was claimed, or

any was intended to be confirmed. McDonogh & Co. simply say they claim a "front of thirty-two arpens, with a depth extending as far as Lake Maurepas," under a complete title to Dupare, and the commissioners say it is a claim that stands confirmed by law.

The omission to mention any thing about the plat, goes to show it was not regarded, or had but little weight, and we can scarcely suppose that so important an opening, as is claimed, would have been passed over in silence, if it had been seriously pressed.

We are of opinion, that the plat even if admissible as evidence, is not entitled to any weight as establishing the extent of the claim. Although Potier says he is a sworn surveyor, commissioned by the Surveyor General of the United States, we know of no right that gives him to run out claims under the direction of individuals merely, and fix the boundaries of those not recognised by the government. It is not pretended he acted under any authority from his superior in making what is called a survey; it never was presented to the Surveyor General for his approval, nor does it seem to have had the legal sanction of any one authorized to act in the premises. Potier does not pretend it is a regular survey, he calls it "plan extrait des minutes de nos opérations d'arpentage faite dans les années 1806, 1808, et 1812, lesquelles lignes en divers tems ont été parcourues jusqu'à la raviere Amite et demarqué conformément aux lignes du plan." He then goes on to say, Delille Dupare had described his title from the Collapissa Indians, and sold it to various persons. He does not seem even to have heard of a grant from the French Government in 1769, or attempted a location in conformity to it.

The defendant further states that his claim has been located by the United States since its confirmation, and surveyed in the manner claimed by him. To establish this, he offered in evidence copies of three township plats, to wit: township No. 10 south, ranges five and six east, and township No. 11 south, range 5 east. To the introduction of these plats as evidence Rightor objected, because the papers are not, nor do they purport to be, copies of the original plats of those townships, and for other causes mentioned in his bill of exceptions. The district judge admitted them in evidence, in which we think he erred. The papers are copies of copies, and it is a well settled rule of evidence that they are not admissible as testimony when better evidence can be procured. It is further apparent, from the certificate of the Register of the Land Office, that they are not correct copies. The claim of McDonogh is represented on these copies in a manner differing from that in which it appears on the plats in the register's office. The register states on one of the plats, that on the original "section No. 1 is not colored," but that he had "represented it as it now appears, at the request of John McDonogh, esq." The coloring of these maps was, perhaps, not intended to deceive or impose on any person, but when it is recollected that surveyors represent private

claims properly located on their plats in a coloring different from public lands or doubtful rights, such a representation is calculated to make an erroneous impression. But the objection most fatal to the reception of these plats as evidence, is that they are certified by a person not the keeper of the original. The Surveyor General of the United States for this State is the officer who has charge of the public surveys, and he is the proper person to certify the township maps; 2d vol. land laws, 294, sec. 6. The copies of public surveys deposited in the office of the register of the land office are placed there for his government, and to enable him to perform the duties imposed by law, but he has not legal authority to certify copies so as to make them legal evidence. The law entrusts that power to another person.

Although we are of opinion these plats were improperly received in evidence, we have examined them with a view to see if the pretended survey would justify the claim of the defendant. We do not find in the record the slightest evidence of authority from any officer of the United States to locate this claim in any manner. The acts of Congress of the 12th of April, 1814, and the 3d of March, 1831, direct the mode of locating private claims. Land laws vol. 1, 652, sec. 3, 4. 2, 294, sec. 6.

There are also other acts of Congress in relation to the location of particular classes of claims, but the defendant does not come within the provisions of any of them.

It has been decided that the court and jury will look beyond the confirmation of a claim by the land commissioners or Congress, emanating from the former governments of Louisiana, in order to ascertain the extent and boundaries of the land claimed. 11 L. R. 587. We have acted on that principle in this case, and see no reason to depart from our previous decision, that when the expressions in a title only convey a certain front and depth, the grantee or purchaser cannot claim by diverging lines to the rear, and thereby obtain more than the superfices contained in a parallelogram, unless there be something in the grant to authorize the opening, or from the peculiar position of the claim, it shall be necessary to give the superficial quantity. That does not appear necessary in the case before us.

We repeat, that it is not our purpose to decide in any manner upon the validity of the Humas' grant, under which the plaintiffs claim, nor do we decide any thing more in relation to that alleged to be in favor of Delille Dupare, under which the defendant claims, than to say whether it is for thirty or forty arpens front, and is eighty arpens or more in depth, it must be located by parallel lines, unless the confirmation to McDonogh and Brown for eighteen arpens, three toises and three feet front, by eighty in depth, should for that quantity authorize the opening mentioned in the report on the claim, but it cannot extend beyond it.

It is clear from the evidence before us, that the claim of the defendant, if located in the manner specified, cannot in any way in-

terfere with the land claimed by the plaintiffs as shown by the plats laid before us.

The judgment of the district court is therefore affirmed, with costs.

Monday, May 3d, 1841.

The court met. Present, their honors, F. X. Martin, A. Morphy, E. Simon and Rice Garland.

His honor Judge Bullard is absent by leave of court.

LAURENT MILLAUDON, appellees, & others,
3734. *vs.*
JOHN MCDONOGH, appellant.

On motion of John R. Grymes, esq., of counsel for appellant, it is ordered that the time for filing a petition for a rehearing be extended until Monday next, 10th instant.

Petition for a rehearing filed May 8th, 1841.

MILLAUDON
vs.
MCDONOUGH.

In the decree rendered in the above entitled suit, the counsel for the defendant find themselves so much surprised, as well by certain conclusions of fact, as by the omission to notice certain portions of the testimony which to them appear entitled to great weight, that they feel it their duty respectfully to ask for a rehearing, and they point out as matters falling within these remarks:

First:—The conclusion that the lines of Dupare's survey were parallel.

Second:—The omission to notice the proof by three or four witnesses of unimpeached veracity, that for thirty years past McDonough had possessed and exercised acts of ownership over the portion of land in dispute, lying on the Bayou Acadien and the Amite; and it does strike us as an extraordinary state of things that a man who has not established a title in himself, can, by any process, turn out of possession his neighbor, holding for thirty years, with or without title.

The plaintiff sues us for slandering his title—but he shows no title, not even possession, that possession is in us: What have we slandered? What damage has he sustained? For what are we to be put out of possession?

Our laws of libel provide (acts of 1821, page 54) "that whenever there shall be instituted a civil suit for slander, &c., it shall be lawful for the defendant to plead in justification, the truth, &c." Now if we are able to show that the plaintiffs' title is bad, is not this a justification; and is it not equally a justification to show that the title is in some third person or in the government? If it be not,

it follows as a consequence that no one but an actual owner of the land can ever escape condemnation in an action for slander of title.

Ex. Gr. Peter asserts that the heirs at law of Alexander Milne have no title to his real estate, and is sued for so doing. Although he should exhibit the decree of this court, establishing that the Orphan Asylum were the owners, and that the claims of the heirs at law were defective, he must be condemned, because he does not show title in himself; the court declining to look at their own decree establishing the title. If the Spanish laws (which we supposed repealed, as well as all modes of practice preceding the code of practice) were still in force, it appears to us a strange interpretation.

In the case of Bedford & Urquhart, 8th L. R. 246, the court told us "that an action might be maintained by one not the owner of the land, but in the way of becoming so when he lost the possession, and that he who was in possession in good faith in virtue of a just title, and lost the possession *before the period for prescription was complete*, could recover from one in possession without title." We concluded *a fortiori*, a person who still was in possession, and whose full term for prescription had run, could not be turned out by one not showing title; for in this position, does it appear to us, has the court placed Rightor by refusing to examine his title. That McDonough did not possess in good faith has not been pretended; his title appears to us most unquestionable, unless holding by an erroneous line puts a man in bad faith.

Before proceeding further, there are two remarks of the court which call for notice.

1. At page 14 it is said "No other evidence exists of any well founded claim to an opening to the rear, until McDonough became interested."

2. At page it is said "It is certain that McDonough did not consider the tract as extending to the Amite previous to 1806, as he was established on that stream some years previous *under a different title, or as a trespasser.*"

The first of these remarks seems to insinuate that McDonough had changed the course of the lines.

There are two things we supposed to be made perfectly plain, though held otherwise by the judge a quo, viz: that the lower line of Fontenoy is identical with that of Dupare's, and not his upper line; and in consequence Dupare's lower line did run to Lake Maurepas as called for by the grant. Now the oldest survey exhibited, that of Trudeau, in 1784, gives to that line a course North 9° East; the same survey gives to the upper line a course of North 35 West. Mr. Rightor is a surveyor, perhaps he can lay these lines down on a plat so as to run parallel—or so that they will not diverge. With our small stock of mathematical knowledge, we cannot, and it seems to us that to ascertain where two lines on a given course will lead to, is not a question of law or logic, but of practical survey-

ing, and that no man's title, depending on a mathematical line, can be safe if N. 35 W. can be made parallel to N. 9 E.; nor can we deem it singular that the five intermediate lines, dividing the tract into equal parts, should be all in different directions; as when we look at five spokes of a cart wheel, we perceive they all point differently, and none of them are parallel.

When the land passed from Dupare's heirs, Fontenoy continued to hold his part by the lower line N. 9° E., and the first spoke N. Tregre held his portion by the upper line N. 35° W., and a part of the space towards another spoke.

Lafon made a survey for Guerlain, of a middle section with a proportionate divergence.

All these matters occurred before McDonough owned a foot of the land; and even Pothier's survey of the upper line, fixing it on the same course, was made before McDonough owned that part. This plot was made from notes of surveys made in 1806, 1808, and 1812. It was in the last year McDonough bought from Tregre.

By the decree of the court, rejecting the township plots, we are not permitted to see that all the United States surveyors have given the same diverging lines, or that Rightor himself certified them as correct in his capacity of deputy surveyor of the United States. In point of fact, no such pretension was set up by the plaintiff, either in the court below, or in the argument here. They contended that Aubrey had no authority to make the grant, the colony having been previously ceded to Spain; they contended that the grant was a forgery, interpolated in the land office books; they said our lines could not cross Bayou Acadien, which was a navigable stream; the record is filled with exceptions and objections, but this is not amongst them. No man knows better than Mr. Rightor, that this is one of the oldest and best established lines in the country, and his counsel is evidently afflicted with a disease prevalent amongst the Houmas tribe, and called by medical men, the parallelophobia.

2d. We have again searched the record, but in vain, for any proof that McDonough, previous to 1806, held on the Amite by another title, or as a trespasser, unless it be found in one circumstance. The witness Vicknaire, at page 51, says he accompanied Pothier when he made this survey, that this was thirty-nine years ago, and that it was then he saw the negroes of McDonough at work on the Amite. The circumstance was marked as one to impeach the credit of the witness, as McDonough's first purchase was only thirty-two years previous. But this did not avail, as three other witnesses fixed it at thirty years ago. Mr. Bouligny, the most intelligent of them, says in 1806 or 1807. Common charity would make allowance for error, where a witness of no extraordinary intelligence was speaking of dates so long past; but when several others correct the date, and when we see that Pothier himself, in certifying the plot, says that his surveys were made in 1806, &c., all doubts should cease, the error is plain. It is true that in the district court, Mr. Preston did *state* that McDonough held there

by another title, and this led to the examination of these witnesses as to which side of the Amite the clearings were on; McDonough, it was said, had a saw mill in the neighborhood. It is a fact, whether proved or not, that McDonough and Brown had a saw mill, but it was on the Florida side; why did he not produce this title? certainly not because he had not sufficient land office facilities, but because none such exists. Suppose, however, he had produced it, cannot a man in possession under one title obtain a second title, and will not his possession taken under the first insure to the last from the date of the last? Or, if a man who has possession as a trespasser, obtain a title, cannot that possession be united with his title from the date of the latter? Or, suppose he had no title, but had possessed as a trespasser for thirty years, does or does not that give a title, according to the case of Bedford & Urquhart?

We then respectfully submit, that there is shown:—

1. A claim to the tract of Dupare, with diverging lines, before McDonough was born.

2. That the persons under whom he claims, and the owners of the adjoining lands, held by the same lines we now contend for, until McDonough became owner.

3. That he did possess parts of the land in dispute, which do not fall within the parallel lines, but do fall within the diverging lines; and we will proceed to apply the rules of law as heretofore settled to this state of things. The extent and effect of the confirmation of McDonough's title have been the subject of much critical remark. Before we notice them, we will take occasion to say, that we hold it of very little account, for these reasons:

When Delisle Dupare received a grant from the French Government to a tract of land bounded above by Lacombe, and below by Allemand, his title was as good and complete as that of any citizen of the United States, who has gone to the land office, paid for his section, and with a patent in his pocket, taken possession. No transfer to any civilized nation could affect individual rights or private property. During the half century that Spain held the colony, Dupare's grant sustained no diminution. It was retroceded to France, and by her to the United States. What confirmation was necessary? The United States opened a land office, and called for a registration of the titles. If the object of these proceedings was to enable them to distinguish private property from the public domain, it was a wise precaution. If its object was further to enable those who held inchoate and imperfect titles, to complete them, it was a just and benevolent purpose. But if its object (too often mistaken) was to abridge the rights, or affect the property of the transferred people, it was a gross violation of the treaty and international law, and a disgrace to the government. It was not so intended. See Mr. Gallatin's letter, 3 vol. State Papers, page 254. As Dupare received this land under the French Government, as he held it under the Spanish Government, so does he hold it now. The land then *lying between* Allemand and La-

combe, was Dupare's, and is ours. But 'tis said these lines were parallel. Where is the proof? In the rule adopted by this court in some case of extremity, that in the absence of all proof as to the course of the lines of a tract, (*one tract*,) they would presume them to be *parallel and perpendicular* to the bank of the river. To us this presumption has always appeared a most questionable one. Perhaps between the Balize and the Falls of St. Anthony ten places might be found where two lines running perpendicularly from the river bank, a mile distant from each other, might be found parallel; but the experience of all of us makes it certain, that if lines are drawn perpendicular to the serpentine course of the Mississippi, that must happen which a glance at any map will show has happened, viz: that plantations on points have their side lines converging, and those in the bends have them diverging; although in such case it is presuming at a most desperate hazard, yet in the absence of all proof, perhaps 'tis a necessary one.

But is this our case? These lines were not fixed as lines of our plantation, and so falling within the rule referred to. They were established first as the lines of two different plantations, more than a mile apart. Where is the rule or where the reason that my line is parallel to my neighbors, a mile above or below on the river? There is filed in this court a map of the whole country from Donaldsonville to New Orleans; can any one find two such lines on the whole of it? All presumption, all fact is against it.

But is there a want of proof of the course of this line? That there is, or rather was, an uncertainty on the face of the grant, we do not deny. Can that be cured by proof de hors? It will be seen by the case of Henderson vs. the St. Charles church, that it can even by parol; so says Starkee, quoted at the trial. What is shown with regard to this line? By the oldest plot in evidence, that of Trudeau's above referred to, and made between 1780 and 1790, this course was laid down as we claim it. How did he establish it? Had he reference to old maps not accessible to us? Did he call in witnesses long since dead? Did he summon Lacombe and Allemand? It was his duty to have done so, and he must be presumed to have done his duty. And if so, can we believe that Mr. Lacombe was so kind a neighbor as to let him run his line 45° on his land, N. 35 W., when it ran parallel to Allemand's W. 9° E. 2. Trudeau was the Surveyor General of the colony; a man of standing, with abundant means of information which we do not possess, and according to his lights he laid it down. We know we live in a "march of intellect age," are wiser than others before us, and yet we think it probable that the people who lived sixty years ago might know certain matters happening in their own neighborhood better than we do. When, says our code, "the intent is doubtful, art. 1951, the construction put on it by the mode of its execution must be considered." Expositio contemporanea est fortissima in lege. Pothier and Lafon followed; one surveyed Guerlain's part,

the other Tregre's; both laid down the lines as we claim them. Every survey produced, and they are not a few, lays down the same course. Not one lays it down differently. In 1840 is the first idea of parallel lines heard of. When to this concurrence of surveyors we add the fact, that down to this hour the occupants, and their limitrophe neighbors, hold to this line, what room is left for presumption of any kind? Proof exists much stronger than that in Williams vs. Hymell, which induced the court to say, "that a dividing line long established and referred to, &c. would be taken as the true one, in preference to running a new one, more in accordance with calls, distances, &c. 11 L. R. 85," exists in this record.

The judge of the district court laid great stress on the words of the grant, "Jusq'à lac Maurepas," and persuaded himself that both lines should run to that lake, but that neither of them did. He forgot that the directions of these lines were not given by this grant. That direction had been previously fixed by the grants above and below. If those lines were parallel, he is right; if they were not, we have not received what was granted,—"the land between Allemand and Lacombe as far as, or as far back, as lake Maurepas." In the case of Minnikin vs. Minns, 13th L. R. 546, the court held, that in a sale of a tract of land having certain described boundaries, but referring to a plot of survey, such reference *must control* any vague and indefinite description of boundary in the clauses of the contract. The vague and uncertain description is here in the terms "Jusq'à lac" connected with the fact of referring the side lines to those of the neighbor above and below. As he has placed the lines, it is certain that neither line will touch the lake; but had he taken the true line of Dupare, viz: the now lower line of Fontenoy, and ran the upper line of Dupare parallel to that, it would not have touched the lake. So near was the lower line to the upper end of the lake, that there is not room enough for even the thirty-two arpens to be "face au lac." Whilst, therefore, in disregard of the authority of the case in 13th L. R. 546, he has rejected the lines so long held to, in order to come nearer the descriptive words of the grants, he has failed in the attempt to satisfy even those terms.

A highly respectable citizen, Mr. Shepherd, holds the front part of this tract; suppose his neighbor above should sue him for slander in title, in saying the land to this line was his—that he had avowed it, and produced the same plans, documents, and proofs we have, could he be condemned? We do not believe it; and yet there is no one reason for running McDonough's part of the line N. 9° E., which will not require the same of Mr. Shepherd's part; they are parts of one whole, sections of one straight line, the course of which established in one part, continues through the remainder as certain as the needle.

In the case of Henderson vs. St. Charles church, Judge Matthews, in delivering the opinion of the court, declared, "Although

no boundary should have been placed, (except that of the beginning on the river,) nor a single tree marked. If the magnetic course of the line be given, the possessors of the land pro suo, would have acquired title to the whole tract, jure prescriptiones. The want of direction to the line from any written evidence of title, may, in our opinion, be supplied by the testimony of witnesses who prove the course given to the ditches and fence, which form, and have formed for thirty years at least, to a considerable extent, the common barrier between the plantation and church. The latter obtained a concession of ten by forty arpens, and the line between this community and their neighbor, sanctioned by prescription, has assumed a direction towards the lake, or back lands, which must be continued in the same course and direction to the extent of their claim, without distinction in regard to the second concession. The course given by the direction of the fence, establishes the right of the appellees to pursue it (at least to the distance of forty arpens) as explicitly as a magnetic course ascertained by a surveyor, and laid down on his plan, could have done. It is true that the second concession, made to the person under whom the appellant [claims] bears date prior to that in favor of the church; but the lateral lines by which it is embraced, according to the request and grant, must have the same direction, *au devant*, as those which enclose the plantation immediately on the river, &c. &c.

In the same spirit the court, in Williamson vs. Hymell, 11th L. R. 85, held "that in actions of bornage, a dividing line long established between the parties, and referred to in the proces verbal, &c., will be taken as the true one, in preference to running a new one, more in accordance with calls and distances," &c. &c.

Lay this decision alongside the present one, and see how they tally. The magnetic course is the great test of accuracy; once begun, it must continue not merely as we claim to the end of the line, but, if a second grant be made in the rear, it must be limited by the same side lines, *though the adjoining proprietor has a prior grant in the rear.*

We shall probably be told, these cases present questions about lines consented to by the adjoining proprietors, as in case of Mr. Shepherd and his neighbor, above; but nothing shows Rightor's assent, or that of any one under whom he claims, to our line: that is perfectly true—we are aware of it, and do not intend to blink any question presented. Had we been able to show Rightor's assent by his holding to the common line, it would have been what at common law is termed an estoppel en pais; he could not have controverted his act. We do not oppose it to him in that sense; we admit it does not estop him, and he is at liberty to contradict it as any other fact. He tells us your line is wrong in its direction; we say it is not—we show the ancient surveys, the ancient holdings by the front proprietors, and hence, we say, results the course of the lines in the rear. What does he show to rebut this? Any

ancient maps of a different character—any claim or pretence adverse to these holdings in front? None. Does he even show an adverse holding in the rear, or any adverse act of ownership or possession? There are none. Then, if the case of Henderson vs. the Church of St. Charles be law, the line must be continued in the same course throughout.

And now let us turn to the confirmation by Congress; and first of Pothier's survey, to which, as well as Trudeau's, various remarks have been made in disparagement, as also to the want of proof of his official character. Let us to the point. Is it admissible in evidence? Was Pothier a deputy surveyor of the United States? Just as surely as that Trudeau was a Spanish surveyor—Lafon an American deputy surveyor. Their signatures and official characters are of public notoriety; and if questioned, the burden of proof rests on the objecting party. And here let us, once for all, state, what was in the court below as apparent as any fact sworn to, that the whole interest and influence of the land office was at the service of their confrere, Rightor. When he tells us that McDonogh held on the Amite by another title, or that the confirmation by Congress was not based on Pothier's plot, or that Pothier was not a deputy surveyor, the court may count with certainty that the statement is untrue; for, if true, it was in Rightor's power to produce the most irrefragable proof. Shall we be told in mockery, the public records are open to you also? We know they are. If we ask for a copy of any document, it must be furnished to us. Surely so—the court would compel the production; but we must first be able to tell what paper we want. There may be fifty in the office to answer the purpose, but we know not which they are. After all, it comes to matter of legal proof. Are we bound to produce proof of the official character and signature of an United States officer, acting within the State? If not, it is admissible as evidence. What, then, impeaches its full credit? It conforms to all former surveys known; none are produced to contradict or vary it—possession time out of mind has gone with it—and, lastly, Congress has confirmed it—yes, *confirmed it.*

The endorsement on the back of this, by S. H. Harper, register of the land office, shows it to have been amongst the documents filed in support of McDonough's claim. Was any other plan offered? It is not presumable that McDonough exhibited contradictory plans; if he did, they are on file in the land office. Why has not Mr. Rightor produced it, and filed it along with the other title to the land on the Amite? For the best reason in the world, sirs—because they never existed. We have already displayed our learning once, by saying, *de non aparientibus et de non existentibus eadem est lex.* It was, may it please your honors, precisely upon this plot the confirmation was made. Can you suppose that if any other plot had been before them, they would, in selecting the one, have said nothing of the other; or if they meant to confirm only thirty-

two arpens front, with parallel lines to the lake, they would have expressed it in such terms as these: "*This claim is now confirmed in its whole quantity;*" when they were throwing out $\frac{2}{3}$ or $\frac{3}{4}$ of the quantity laid down by the plot before them, the thing is incredible: more than that, it is opposed to the rule laid down in the case of Henderson vs. St. Charles Church. By that it was ruled that the established lines of a front concession should regulate the back concession. Now, the first confirmations were to the depth of forty or of eighty arpens, to Fontenoy, Bourgeois, and Guerlain. If the second confirmation were necessary, and operated as a new grant, according to Henderson's case, it must be by a prolongation of the lines, the same courses.

In the case of Suarez vs. Duralde, 1st L. R. 260, this court held, that where a plan was furnished and referred to in a contract, the parties should be bound by such plan.

In case of the Canal Bank vs. Copeland, 6th L. R. 551, they declared that where a plan was exhibited at a sale, and referred to in the proces verbal, it must be regarded as forming part of the description.

In the case before referred to, of Minnikin vs. Minns, 12th L. R. 546, they decided that such a plot must control the written description, where uncertain; according to these decisions, had McDonough sold by exhibiting or referring to these plans, he must have been bound in warranty, according to the plot, in the language of the confirmation, for the "*whole quantity claimed.*" Yet, where the commissioners recommend the claim for confirmation *to the whole quantity*, with the plot before them, and Congress confirm this report, this is construed to be a confirmation by lines never before heard of, according to no plot exhibited, and including certainly not one-third of that claimed. These decisions are then at variance, unless it can be shown that a different rule of construction prevails in the interpretation of individual acts, from those used in the interpretation of official acts; for nothing is plainer than this under these decisions, that if Joshua Lewis and T. B. Robinson, individually, had bargained for this tract of land, without any limit or quantity expressed, but the plot of Pothier had been referred to as one of the documents forming the title, they must have stood to it. Yet, when Joshua Lewis and T. B. Robinson, as commissioners, confirm the title officially, this court construes it a confirmation of thirty-two arpens front between parallel lines, with less than $\frac{1}{3}$ of the superficial contents.

But 'tis said courts and juries may look behind a confirmation. Be it so. What has been seen behind it? Exactly that which we rely on without the confirmation—a complete French grant, more than seventy years since—a survey by the Spanish officers with the same courses—a possession equally long, by those under whom we claim, and their neighbors. If that holding can now be corrected, neither time, nor usage, nor tradition, nor possession, nor precedent, can avail.

Let us here examine how our decree tallies with preceding decisions on the score of possession. We have already referred to the case of Bedford vs. Urquhart.

In Baker vs. Thomas, 4th L. R. 417, it was said, "a grant to land in '92, survey in 1802, and possession of three or four years, will prevail over a prior order of survey not executed or taken into possession."

In Delahoussaye vs. Saunders, 4th L. R. 443, they said, "that where such elder order of survey was accompanied by possession, it should prevail. The fact of possession alone decided these two cases; the elder title without possession losing in the first, but with it succeeding in the second. Our title is many years the eldest; our possession is not three or four, but thirty or forty.

In Blanc vs. Duplessis, 13th L. R. 335, it was decided, that where two possessions lapped, that which was corporal, and manifested by act peaceable and notorious, should prevail.

These principles do not depend even on the authority of this court; they exist in the actual provisions of our code, clear and plain. Art. 848 provides, "whether the title exhibited by the parties whose lands are to be limited consists of primitive concessions, or other acts by which property may be transferred, if it be proved that he whose title is of the latest date, or those under whom he holds, have enjoyed in good or bad faith, by uninterrupted possession during thirty years, of any quantity of land beyond that mentioned in his title, he will be permitted to retain it; and his neighbor, though he have a more ancient title, will only have a right to the excess; for if one cannot prescribe against his own title, he can prescribe beyond his title, or for more than it calls for, provided it be by thirty years' possession."

Lastly, in Boatner vs. Walker, 11th L. R. 585, it was decreed, "that a confirmation by Congress was equivalent to a patent, and must be regarded *as the best title, unless the adverse party shows a prior title* out of the government. McDonough has then shown a patent—the best of titles—no prior grant by Government existing: The survey of Trudeau in 1790, confirmed by every survey since, and contradicted by none—with a corresponding possession in front; in the rear the disputed part—a possession in his own person of thirty years, with a confirmed title. And yet these several matters which, in former controversies, singly sufficed to decide the right, have not in this, when all combined, been deemed enough to put the court on an examination of plaintiff's title. It stands, as regards this decree, a mere naked possession; and as regards the portion in dispute, there is not a scintilla of proof to show that plaintiff ever had any possession, unless the statement of J. B. Ory, that he for three or four years past had held possession of the land in the rear of Bringier.

Though the court in their decree do not examine their title, it was examined in argument. It originated in a purchase from the

Houma Indians, followed by a Spanish grant, 40 acres deep, with no courses to the side lines, extended, on an application by the grantee, so much further back as to enable him to include the cypress timber necessary for his plantation. In the next or chrysalis state, we find it in the mortuaria of St. Maxent, "extending *back about four leagues*," and now the full grown creature stands before you with full spread wings, extending from lake Maurepas to Red river; but its confirmation forbidden by the surveyor general.

As an additional ground for our application, we say it with regret, but we say it gravely, that it appears that after the argument was closed, a brief was handed *in* which has never been communicated to us; what it contains we know not—it was first made known to us after the decree was rendered. The rules of practice on this subject are settled.

Lastly, we submit that, if we are to plead on the footing of a plaintiff, whether the judgment should have been any more than one non-suit.

All which is respectfully submitted by

J. R. GRYMES & GEO. STRAWBRIDGE,
For Defendant.

Order.—*Monday, May 24th*, 1841.

The court met:

Present, their honors F. X. Martin, H'ry A. Bullard, E. Simon, and Rice Garland. His honor Judge Morphy is absent on account of indisposition.

LAURENT MILLAUDON & al., appellees,
vs.
JOHN MCDONOGH, app't., } 3,734.

It is ordered that the rehearing prayed for in this case be refused.

Petition filed February 7th, 1842.

LAURENT MILLAUDON & others,
vs.
JOHN MCDONOGH.
ABRAHAM RIGHTOR, called in warranty.

To the honorable Judges of the Supreme Court of the State of Louisiana.

The petition of John McDonogh respectfully represents:

That there is error to his prejudice in the final decree rendered in the above entitled suit by this court, being the highest court of law or equity of the State of Louisiana, in which a decree can be had, and that a writ of error lies from said decree to the Supreme Court of the United States, for the following reasons:

First. That the title of Delisle Dupare, under which your petitioner claimed, was guaranteed and confirmed by the treaty under which the province or colony of Louisiana was transferred to the United States, and that the judgment and decree has been against said title.

Second. That said title having been submitted to the proper officers in the land office, and been, by their authority exercised under the United States, approved and confirmed in its whole extent, and this judgment and decree having been rendered against the validity of his title so confirmed.

Third. That the report of the land office commissioners having been approved and ratified by a statute of the United States, and the said judgment and decree being against the validity of the title so confirmed.

Your petitioner prays a writ of error be allowed him, with citations returnable to the Supreme Court of the United States, upon his giving bond with security as the law directs.

(Signed) STRAWBRIDGE & GRYMES, *for Petit'r.*

Order.

Let the writ of error be allowed according to law.

The petitioner to give bond and security in the sum of five hundred dollars.

(Signed) F. X. MARTIN.

Bond.

Supreme Court of the United States of America.

LAURENT MILLAUDON et al., vs. JOHN McDONOGH. } In error.

Know all men by these presents: That we, John McDonogh and , residing within the jurisdiction of this honorable court, are held and firmly bound unto Laurent Millaudon, John Slidell, Joachin Kohn, in his own right, and as syndic of the creditors of H. G. Schmidt, and Fred'k Frey, Charles F. Zimpel, H. T. Williams, and Abraham F. Rightor, and unto their heirs, executors, administrators, and assigns, in the sum of five hundred dollars, ($500,) to be paid to the said persons above named, their heirs, executors, and administrators. To which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated at New Orleans, this 21st day of March, 1842.

Whereas, the abovementioned John McDonogh hath prosecuted a writ of error to the Supreme Court of the United States, to reverse the judgment rendered in the above entitled suit by the supreme court of the State of Louisiana.

Now, therefore, the condition of this obligation is such, that if the above named John McDonogh shall prosecute his said writ of error to effect, and answer all damages and costs if he fail to make good his plea, then this obligation shall be void, otherwise of full effect and virtue.

Sealed and delivered in presence of
(Signed) JOHN McDONOGH,
A. DURNFORD.

Endorsed 3,734, Laurent Millaudon and al., appellees, vs. John McDonogh, appellant.

Supreme Court, filed April 1st, 1842.
(Signed) A. CUVILLIER, *Clerk.*

UNITED STATES OF AMERICA,
Supreme Court, E. D., State of Louisiana.

I, A. Cuvillier, clerk of the supreme court of the State of Louisiana for the eastern district, do hereby certify that the foregoing two hundred and nine pages, contain a true copy of the transcript of the proceedings had in the district court, for the first judicial district, in a certain suit wherein Laurent Millaudon and others were plaintiffs, and John McDonogh was defendant; and also of the proceedings had in this supreme court, on the appeal taken by said John McDonogh, which appeal is now on the files thereof, under No. 3,734.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said court, at the city of New Orleans, this sixth

[L. S.] day of July, one thousand eight hundred and forty-two, and in the sixty-seventh year of the independence of the United States of America.

A. CUVILLIER, *Clerk.*

UNITED STATES OF AMERICA,
Supreme Court, E. D., State of Louisiana.

I, F. X. Martin, senior judge of the supreme court of the State of Louisiana, do hereby certify that A. Cuvillier is clerk of the supreme court for the eastern district; that the signature of A. Cuvillier to the within certificate, is in the proper handwriting of him, the said clerk; that said certificate is in due form of law, and that full faith and credit are due to all of his official acts as such.

In testimony whereof, I have hereunto set my hand and seal, at the city of New Orleans, this 6th day of July, 1842, and in the 67th year of the independence of the United States of America.

F. X. MARTIN.

MILLAUDON and others, vs. McDONOGH, RIGHTOR and others, in warranty. } Assignment of Errors, by McDonogh, pl'tiff in error.

1st. The plaintiff in error showed and exhibited a grant to the land in dispute, from the crown of Spain to those under whom he claims, and showed and proved title in himself under the said grant; which title is guaranteed by the treaty of cession of Louisiana, between the United States and the French republic, of the day of , and the judgment of the court is against the said title, and is erroneous.

2d. The plaintiff in error showed and proved a good title to the land in dispute, confirmed by the board of land commissioners acting under the authority of the United States, and their proceedings again confirmed, and the said land actually vested in the said plaintiff in error by the act of Congress of the —— day of ———, and the judgment of the court is against said title, and erroneous.

3d. The plaintiff in error showed and proved, by the evidence on the record, a good title by prescription.

4th. The defendants in error showed and proved no title to the land in dispute, and could have no judgment for the same.

5th. The plaintiff in error having showed and proved title to the land in dispute, and took possession under the same, the judgment should have been for him, maintaining him in his title and possession against the defendants in error, who have showed neither title or possession.

5th. The judgment should have been in favor of the plaintiff in error, and against the defendants in error; wherefore the said plaintiff in error prays that the said judgment may be reversed.

JNO. R. GRYMES,
GEO. STRAWBRIDGE.

Filed 24th October, 1842.

SUPREME COURT OF THE UNITED STATES.

No. 61.

McDONOGH, PLAINTIFF IN ERROR,

vs.

MILLAUDON ET AL.

Translations.

(French and Spanish documents and notes to maps printed in front of the record.)

From the French.—Copy.

Before us, Augustin Dominique Tureaud, judge of the parish of St. Jaques, in the county of Acadie, and there residing, appeared Mr. Antoine Tregre, an inhabitant, domiciled proprietor, and resident of the parish of St. Jean Baptiste des Allemands, who, by these presents, hath sold, granted, released, [and] transferred, from this time and forever, under all the warranties of right, and especially from all sorts of disturbances, eviction, or general hindrance whatsoever, to Messrs. John McDonogh, jr., & Co., here present, and accepting for themselves and their assigns, the real and personal property hereinafter specified—that is to say: 1st. A plantation of four arpens front, upon the depth which may belong to it, according to the title papers and proces-verbaux which the said vendor binds himself to deliver to the said purchasers, and upon their first request, the said plantation situated on the left bank of the Mississippi, distant sixteen leagues or thereabouts from New Orleans, bounded above by the plantation of Mr. Martin Dubourg, and below by that of the said purchasers; which land is derived to the vendor from two arpens which he acquired from Mr. Pierre Matherne, by an act passed at the registry [*greffe*] of this parish, the twenty-eighth day of the month of August, one thousand eight hundred and one; and the two other arpens derived to the said vendor from an exchange which he made with Mr. John Berry, by act passed at our greffe the third day of the month of June, of the year one thousand eight hundred.

2d. All the horned cattle which may be found upon the said plantation or the environs, and which shall be found stamped A. T., as well as the increase which may come thereout; with the exception, nevertheless, of two cows, stamped as above, the one black,

J. & G. S. Gideon, printers.

which the said Tregre declares to have sold to Mr. Alexander Chenet, and the other red, which he has sold to Mr. Jaques Chauvin. By express agreement, the vendor reserves to himself all the cypress trees which are lying upon the ground at this time, upon the place which he has sold to the said Messrs. McDonogh, jr., & Co., as well as the right to fell, at his convenience, fifty cypresses of his choice. This sale is made, with the reservations therein stipulated, for the price and sum of six thousand dollars, forming the price agreed between the parties, which sum will be payable as follows, to wit, fifteen hundred dollars payable in cash, which the said Mr. Tregre acknowledges to have received; fifteen hundred dollars the fourth day of the month of March, one thousand eight hundred and thirteen; fifteen hundred dollars the fourth day of the month of March, one thousand eight hundred and fourteen; and, finally, a like sum of fifteen hundred dollars payable the fourth day of the month of March, in the year one thousand eight hundred and fifteen; which makes up, in the whole, the above mentioned sum of six thousand dollars—for the which, the said vendor binds himself, by these presents, to give good and available acquittances and discharges, so soon as the last payment shall have been realized in the hands of the said vendor.

In consequence of the above, and on the other side, the purchasers consent that the said place shall remain specially hypothecated until complete payment.

Done and passed at our office, in the parish of St. Jaques, county of Acadie, the fourth day of the month of March, of the year one thousand eight hundred and twelve, and of American independence the thirty-sixth year, in the presence of Messrs. Martin Dubourg and Douraudon Bringier, both summoned witnesses and domiciled in this parish, who, as well as the parties, have signed, with me, the above named judge, after the reading [of the act.]

Thus signed in the minute.

ANTOINE TREGRE,
JOHN McDONOGH, Jr., & Co.

Martin Dubourg, Witness.
Ml. Doradon Bringier, Witness.

A. D. TUREAUD, *Judge.*

True copy from the original, deposited in the archives of this parish for reference.

In faith whereof, I have delivered these presents, signed by my hand, and sealed with the seal of my office, at the parish [L. s.] of St. Jaques, county of Acadie, the sixth day of the month of March, of the year one thousand eight hundred and twelve, and of the American independence the thirty-sixth.

A. D. TUREAUD, *Judge.*

From the Spanish.—Note to map.

Don Carlos Trudeau, royal and private surveyor of the province of Louisiana, &c.

I certify to have measured, bounded, and staked off, in favor and in the presence of Don Henrique Fonteneau, and upon the personal attendance of the immediate neighbors, a piece of land of eight arpens four toises and three feet front, measured upon the dotted line of the plat, which runs perpendicular to the lower boundary—which land, situated in the Costa de los Alemanes, [German shore,] in the district of the parish of San Juan Bautista, upon the left bank of, and fronting upon, the Mississippi river, at about twenty, **I would say*, forty-three miles distance from the city of New Orleans, up the river, in the quarter commonly called La Vacherie, bounded on one side by the land of Gillar and Pedro Bourgeois, and on the other by other lands of the smith Gabriel Cloutier. The boundaries open or widen themselves towards the depth nine degrees, the upper, common with the lands of Pedro Bourgeois, directed in depth north ten minutes west; and the lower, common with the land of Gabriel Cloutier, directed in the same depth, north eight degrees fifty minutes east of the actual needle, without regard to the variation. In that boundary were found two landmarks of cypress wood, which, according to the claims of the parties interested, were planted by the adjutant major of the post, Don Luis Andrey, commissioned for this purpose. In the upper boundary, common with Pedro Bourgeois, I caused to be planted two landmarks of cypress wood—the first at thirty toises distance from the bank of the river, and the second at forty toises further back toward the depth; the whole as exhibited in the plat on the other side. This survey was performed for the partition of the lands of the succession of Don Francisco Delille Duparc, the heirs having each one sold his portion, to wit, Madame Macnemara in favor of the aforesaid Don Henrique Fonteneau; Mons'r Coma and the heirs Delille, two portions, in favor of Messrs. Gillard and Bourgeois; Mons. de Mandeville, in favor of the mulatto, Alexandre Lanuge, one portion; the heir Duparc, [the son, alone remains with the last portion bounding with the first Acadian shore [*costa Acadianos*]. The whole, as it is made manifest in my official acts of the days in the month of March, one thousand seven hundred [and] eighty-seven—repeated, in virtue of the decree of the Governor General Don Estevan Miro, under date of the seventeenth day of the month of September, of the aforesaid year, the ninth and tenth of the month of August, of the present year. I give the present, extracted from the plat made of the partition, which remains in the office of the surveyor general, No. 275.

Note, that the vendors of these lands declare, that this land ought to contain thirty-five arpens of front, with the whole depth to the

* *Veinte, digo cuarenta*—this *digo*, literally *I say*, is the familiar expression in correcting a *lapsus linguæ*.—*Translator.*

Lake Maurepas, from having been so purchased of the Indians in the year 1739; but in the verification which was made of the front, there were found forty arpens and twenty-three toises of front. Wherefore, there will belong to each fifth portion, eight arpens four toises and three feet of front on the river. And that the present may be used where it may be proper—I give it on the request of a party, the twenty-fourth of the month of September, of the year 1790.

(Signed) CARLOS TRUDEAU, *Surveyor.*

Extracted from the plat No. 271, portion No. 5 of the Vacherie.

[Acadian shore, left bank of the Mississippi, parish of St. Jaque.]

Plat extracted from our operations of re-survey made in the years 1806, 1808, and 1812; which lines at divers times have been run as far as the river Amité, and marked out conformably to the lines of the plat; which lands are derived from the Collapissa Indians, who upon this region possessed a considerable tract of land, which they had sold to Mr. Dupart Delile; which portions have been acquired by Mr. J. McDonogh & Co., as well from Mr. Tregre as from the Eastern Shore of Maryland Louisiana Company, and from Mr. Le Bourgeois; the which contain the superficies, as well in the English acre as the French arpent, under the No. 1, 5,285½ arpens and 4,983 acres; No. 2, 30,371⅕ arpens, 28,473 acres; No. 3, 46,010⅔ arpens, or 43,135 acres.

True copy. F. V. POTIER, *Sworn Surveyor,*
And appointed by Mr. Isaac Briggs, Surveyor General of the United States.

New Orleans, 8th July, 1812.

Note.—Observe, that it is believed that the title of Mr. Dominique Provost bears in part upon the land of No. 1, Mr. Tregre, and No. 2, [Eastern Shore] of Maryland Louisiana Company, which is not verified, not having seen his title.

F. V. POTIER.

[County of Acadie, left bank of the Mississippi, parish St. Jaque.]

Plat extracted from the minutes of our operations of re-survey made in the years 1806, 1808, and 1812; which lines at divers times have been run as far as the river Amité, and marked out conformably to the lines of the plat; which lands are derived from the Collapissa Indians, who upon this region possessed a considerable tract of land, which they had sold to Mr. Dupart Delile; which portions have been acquired by Mr. J. McDonogh & Co., as well from Mr. Tregre as from the Eastern Shore of Maryland Louisiana Company, and from Mr. Le Bourgeois; which contain the superficies, as well in English acres as in French arpens, under the No. 1, 5,285½ ar-

pens and 4,983 acres; No. 2, 30,371⅕ arpens, 28,473 acres; No. 3, 46,010⅔ arpens, or 43,135 acres.

True copy. F. V. POTIER, *Sworn Surveyor, Commissioned by Mr. Isaac Briggs, Surveyor General U. S.*

New Orleans, 8th July, 1812.

Note.—Observe, that it is believed that the title of Mr. Dominique Provost bears in part upon the land of No. 1, Mr. Tregre, and No. 2, of Maryland Louisiana Company, which is not verified, not having seen the titles.

F. V. POTIER.

[County of Acadie, parish St. Jaque, left bank of the Mississippi.]

No. 226.

I, the undersigned, certify that I have been applied to by Mr. Antoine Tregré, to the effect that I should deliver to him a true plan of a piece of land, which he has declared to us to be of four arpens front, upon forty in depth, which had already been surveyed by Mr. Andry, and of which he had not the plat; having declared to us that the land belonged to him, as having acquired it in different portions: two arpens from Mr. Jacque Materne, and the two others from Mr. Peter Materne; and this in the record of Mr. Cantrelle, judge of the county;—that the act of sale was deposited at the registry [*greffe*], and that he would furnish a copy thereof, if the case should require it. Wherefore, we have been to examine the landmarks of the boundary between the applicant and Mr. Peter Lanois, planted by Mr. Andry; upon which having placed our graphometer, we found them staked by north thirty-four degrees west; which stakes are of cypress, squared and diamond-headed; the first, marked on the plat A, is at twenty toises from the embankment of the river; and the second, B, one arpent from the first. Having recognised the rectangle, we examined the landmarks between the applicant and Mr. Christopher Mayer, also planted by Mr. Andry: the first, C, is distant from the embankment of the river twenty toises; and the second, D, is one arpent therefrom; which landmarks are of cypress, like the preceding, and found by my graphometer at north thirty-five degrees west, which gives to the applicant an opening of one degree, conformably to the plat hereto annexed.

The applicant having declared himself satisfied, applied for an official despatch (expédition) of our operation, to serve him and to avail whom it may concern.

Done and the 20th December, 1806.

F. V. POTIER,
Dep'y Surveyor.

Compared—certified as a copy conformable to the original, dated this day. F. V. POTIER.

Recorded in the book, side A, No. 226, fol. 367, 8, and 9, of land claims for the counties of Accadie and Iberville.

Parish St. Jacques, 24th December, 1806, and of the independence of the United States of America the thirty-first year.

MICHEL CANTRELLE,
J. Député.

COUNTY OF ACADIE, *Quarter "La longue Vue de la Ramée."*

Acadiens, the 10th of the month of July, of the year 1808, and the 33d year of the independence of the United States of America.

I, Alexander Trouard, commissioned by the undersigned Barthelemy Lafon, deputy surveyor of Isaac Briggs, Surveyor General of the territories south of the Tennessee, do certify, that at the request of Mr. L. H. Guerlain, general agent of the company known under the name of the Eastern Shore of Maryland Louisiana Company, I went upon a tract of land situated sixteen leagues above the city, to survey the same, fix or renew the landmarks, if need be, and establish the lines between the coterminous neighbors. Being upon the place, I have requested him to produce to me the documents which authorized him to have this operation executed, and he produced to me the following:

1st. A certificate of Mr. Trudeau, by which he declares that this tract of land has depth unto the lake; under date of 29th December, 1806.

2d. Another certificate, by which Mr. Delille Dupard declares, that this land is derived from the succession of his father, who had purchased it from the Collapissa Indians, with the grant unto the lake Maurepas; dated 20th December, 1806.

3d. A sale of the said land by Pierre Lanoix, to the company of "*Eastern Shore of Maryland Louisiana Company;*" passed before Michel Cantrelle, under date of March 23d, 1808.

Then the adjoining neighbors being present, viz: Alphonse Gaydel, representing Antoine Tregre, the upper neighbor; L. H. Guerlain, general agent, and one named Pierre, witnesses of assistance—I proceeded to the survey of the said land. I proceeded to the point A, and there taking a direction N. 34° W. of my compass, I opened and staked the line adjoining Antoine Tregre; and measuring from the said point A, twenty-five toises, I have planted a stake B. From the point B, measuring thirty toises on a piece of cleared land, I found another stake, C. I continued to measure as far as the point E, where I stopped the measurement, being 2,335 T. beyond; all this line being in depth 80 arpens, or 2,600 toises. Returning to the point A, I went up on a line running perpendicularly to the [*illegible*] and I measured upon the pointed line ten arpens twelve toises, forming the front of the said plantation. Arrived at the point M, I directed my graphometer to N. 19° 30′ W.,

variation N. 8° 11″ E., and measuring twenty toises, I found a stake planted by Ferdinand V. Potier, at N; from this point, measuring thirty toises, I found another stake planted by the same, O. Measuring further one hundred toises, I stopped my measures. The line is in length eighty arpens, or 2,400 toises. This line was opened (run) as far as the eighty arpens, by Mr. F. V. Potier, in 1806. In such manner that there results in favor of the company of "Eastern Shore of Maryland Louisiana Co." a lot of land, bounded, according to the certificates hereinbefore mentioned, on the northwest by the lands in depth to the lake, on the southwest by Antoine Tregre, on the southeast by the Mississippi, and on the northeast by T. McDonogh and S. Brown; having in surface fifteen hundred arpens, in the part of 80 arpens in depth which I measured—of which 700 are fit for cultivation, none in cypress swamp, none in high prairie, none in marshes, and the rest in low ground.

In testimony whereof, I have given the present plan and procés verbal.

True copy. The 19th July, 1808. LAFON.

Plan extracted from the minutes of our operations of survey made in the years 1806, 1808, and 1812; which lines at divers times have been run through unto the river Amité, and marked out conformably to the lines of the plat; which lands are derived from the Collapissa Indians, who in this region possessed a considerable tract of land, which they sold to Mr. Dupard De Lile; which portions have been acquired by Mr. J. McDonogh & Co., as well from Mr. Tregre as from the Eastern Shore of Maryland Louisiana Co., and from Mr. Le Bourgeois; which contain the superficies, as well in the English acre as in the French arpent, under the No. 1, 5,285½ arpens and 4,983 acres; No. 2, 30,371⅛ arpens, 28,473 acres; No. 3, 46,010⅜ arpens, or 4[3]135 acres.

True copy. New Orleans, 8th July, 1812.

Commissioned by Mr. Isaac Briggs, Surveyor General of the U. States.

Signed, F. V. POTIER,
Sworn Surveyor.

Note.—Observe, that it is believed that the title of Mr. Dominique Prevost bears upon a portion of the land No. 1, Mr. Tregre, and No. 2, "*of Maryland Louisiana Company,*" which is not verified, not having seen the titles thereof.

(S'd) F. V. POTIER.

(From the Spanish.)

LOUISIANA, *year* 1796:

Costa Alemanes, parish St. John Baptist, district called La Vacherie.

Note, that the land of the succession was to have been thirty-five arpens front, according to the declarations of those interested,

and conformably to the writings of sale passed by the heirs in favor of Henrique Fonteno Gelar, Pedro le Bourgeois, Alexander Lange, a mulatto, and Don Francisco Duparc, the son, the only one who did not sell his portion; but in the examination (verification) which was made in the month of March, 1787, repeated upon the 9th and 10th days of August in the current year, the same was found to contain forty arpens and twenty-three toises of front on the river Mississippi, measured upon the dotted lines A, B, C, D, E, F, G, H, I, K, L, M, N, O. All which I certify.

August 10, 1790.

Signed, CARLOS TRUDEAU.

[Page 19 printed record—page 30 of manuscript record.]

(From the French.)

I, the undersigned, do certify and declare that the ten arpens, or thereabouts, of front, now the property of the company known under the name of the Eastern Shore of Maryland Louisiana Company, purchased by L. H. Guerlain of Pierre Lanoix, situated in the county of Acadie, and quarter of La longue vue de La Ramee, between the plantation (*habitation*) of J. McDonogh and J. Broux and Antoine Tregre, make part of a more considerable tract of land purchased of the Indians, called Collapissas, in the year 1739, by my late father De Lille Dupard; and that the purchase of the said land bore the positive condition that the lines and boundaries should run from the bank of the river Mississippi into the Lake Maurepas. That at the period when my late father purchased this land from the Indians, it was not the usage to pass contracts of sale with the Indians; and that it was sufficient to make in fact to them the payment agreed upon, either in the presence of the commissioner or of the interpreter of the Indian nations. That it is, moreover, within my knowledge that there was made a general survey of all the piece of land which my late father possessed at the quarter La Ramee, called Vacherie, which bore the depth from the river to Lake Maurepas, without any interruption; but that it is probable that this plat of survey has been mislaid or destroyed at the time of fires.

In faith whereof, I have given and signed the present, to serve and avail whom it may concern.

(Signed) FRANCOIS DELILLE DUPART.

Cannes Brûlées, this 3d January, 1808.

G. Raoul, witness to the signature of Mr. Dupart.

Gervais Arnoult, witness to the signature of Mr. Dupart.

Note relative to the lands derived from the Dupart Vacherie, at Longue Vue de l'Arrannée.

By an extract from the inventory of the late Delille Dupart, the father, dated 25th November, 1776, done and extended before the

then authorities, and in presence of witnesses, and of the heirs, who signed, it appears that the plantation of about 36 arpens front, situated at the Dupart Vacherie at Longue Vue, had depth unto the lake. It is thus that it is expressed:

* "*Composed of thirty-six arpens of front, and the depth unto the lake.*"

The present copy given conformably to the record, which has served for the recording of the titles of each grantee.

(Signed) MICHEL CANTRELLE,
Registering Judge.

Parish St. Jacques, 5th September, 1811.

Copy.

We, the undersigned, heretofore royal and private surveyor for his Catholic majesty, upon the request of L. H. Guerlain, purchaser of a piece of land derived from the succession of the late Mr. Delille Dupart, situated in the county of Accadie, do certify and declare, that in the month of August, in the year 1790, having proceeded to the quarter of the Accadiens, said to be the place called the Vacherie de la Ramée, there to make, in virtue of a decree of the Governor General Don Estevan Miro, a partition of the lands derived from the succession of the late Mr. Delille Dupart, the said lands being left in inheritance to five of his descendants; that being on the instant of entering upon my survey, I, in the first place, took notice (*recognised*) that these lands were sold as follows: One portion in favor of Henry; two portions in favor of Pierre Bourgeoise; one portion in favor of the free mulatto Alexandre Lange; the fifth and last portion alone having been preserved for the heir, François Delille Dupart. This last portion is the highest up the river, and lay next to one named Nicholas Matherne. After having made the aforesaid partition, the purchasers claimed depth unto Lake Maurepas, according to the sale from the Colapissas nation in favor of the late Delille Dupard.

I stated in confirmation to them, that I had perfect knowledge that this land bore the whole depth unto Lake Maurepas, from having heard it so said by my late father, a captain of infantry and commissioner of Indian nations [of] his most Christian majesty; who had himself (acted as) interpreter for the government at the time of this sale, as was the usage then, because in those times there was no contract of sale passed between the savages and private individuals; and that the payment for this land had been made in his presence. I, the said *ci-devant* royal surveyor, further declaring that I have seen and examined a general plan of survey of the said land, such as the late Lille Dupart had purchased it from the

* Spanish.

Indians, which bore depth unto Lake Maurepas without any interruption; certifying that it is further within my knowledge, that, at the period when Delille Dupard purchased this land from the savages, it was not the usage to make record of those sales; and that, in order to have title of property and possession, (enjoyment,) it was sufficient that the payment therefor should be made in the presence of the commissioner or interpreter of the government.

In faith whereof, I have declared the present to serve and avail whom it may concern.

(Signed) CHARLES TRUDEAU.

June 29th, 1808.

Page 25, printed record, (French)—40, MSS. record.

We, the undersigned, heretofore royal and private surveyor for his Catholic majesty, do certify and declare, that in the month of August, in the year one thousand seven hundred and ninety, having proceeded to the quarter of the Accadians of the places called *La vacherie de l'acconée*, in virtue of a decree of the governor general, Don Estevan Mixo, there to make a partition of the lands derived from the succession of the late Mr. Delile Dupard, the said lands being left in inheritance to five of his descendants; that at the moment of entering upon the survey, I took notice (recognised) that the lands were sold as follows: one portion in favor of Mr. Henry Fonteneux; two portions in favor of Mr. Pierre le Bourgeois, and one portion in favor of a free mulatto named Alexander Lange; the fifth and *tenth** portion alone having been preserved by the heir Francis Delille Dupard. This *tenth* portion is the highest up the river, and lies next to the land of one named Nicholas Matherne. After having made the aforesaid partition, the purchasers claimed depth unto the lake, according to the terms of the sale of the Houmas nation in favor of the late Mr. Delille Dupard. I confirmed to them, that I had perfect knowledge that this land bore the whole depth unto the lake, from having heard it so said by my late father in his lifetime, a captain of infantry and commissioner of the Indian nations for his most Christian majesty, who had himself served as interpreter for the government at the time of the sale; as also that the payment had been made in his presence; and that the present may serve, we have given it, the 29th October, 1806.

(Signed) CHARLES TRUDEAU.

(Page 26, printed record.)

I, the undersigned, declare and certify, that the nineteen arpens, or thereabouts, of front, now the property of J. McDonogh and Ch. Brown, purchased by them from P're Bourgeois, situated in the quarter De la Ramée, called La Vacherie, county of Accadia, ad-

* *Dixieme*—probably error, for *derniere, last*

joining below to Ambroise Aydel, and above to the plantation of the company of "Eastern Shore of Maryland Louisiana Co.," make part of a more considerable tract of land purchased of the savages, called Collapissas, in the year 1739, by my late father, Achille Dupard; and that the purchase of the said land bore the positive condition that the lines ran from the shore of the river Mississippi unto the lake Maurepas; that at the period when my late father purchased this land from the savages, it was not the usage to pass acts of sale with the savages, and that it was sufficient to make in fact to them the payment agreed upon, either in the presence of the commissioner or of the interpreter of the Indian nations; that it is furthermore of my knowledge, that there was made a general survey of all that piece of land which my late father possessed in the quarter De la Ramée, called Vacherie, which bore depth from the river unto the lake Maurepas, without any interruption, but that it is probable that this plat of survey has been mislaid or destroyed by fires.

In faith whereof, I have given and signed the present, in presence of witness, to serve and avail whom it may concern.

Cannes Brulées, 3*d June*, 1808.

(Signed) FRANCOIS DELILLE DUPARD.

G. Reoul, witness of the signature of Mr. Dupard.

Gervais Arnould, witness of the signature of Mr. Dupard.

(Page 39, printed record.)—From the French.

(13.)

Ascension, 27*th April*, 1830.

My Dear Sir: I have just received your friendly letter of 21st inst., which has been delivered to me by Mr. Watson, who remarked to me that, in consequence of the high waters, it would be impossible for him to run your line at present. You may be sure that I will contribute for half, upon all that portion where my lines bound upon yours.

I think you would do well to see Mr. Laville—his land being in the same situation as mine, with regard to your lines.

Your devoted servant and friend,

(Signed) ML. D. BRINGIER.

To Jno. McDonogh, esq.

(From the French.—Printed record, page 42.)

No. 19.

Charles Philippe Aubry, Chevalier of the royal and military order of St. Louis, Commandant for the king in Louisiana, and Denis Nicholas Foucault, performing the functions of Commander (Ordonnateur) in this province.

Seeing what is set forth in the petition, on the other side, of Mr. Pierre Joseph Delille Dupard, the father, we have granted, and do grant, by these presents, to the said Mr. Dupard, thirty arpens of

front to the river, upon the whole depth which shall be found unto lake Maurepas, of the land where heretofore were two villages of the Collapissas savages, situated at about sixteen leagues above, and on the same side with, this city; to take from the plantation of one named ——— Allemand,* unto its junction with that of a (person) named Joseph Lacombe, a free mulatto; that he and his heirs or assigns may enjoy and dispose of, in full property and usufruct, and as a thing belonging to him, the said thirty arpens of front upon the said depth—saving anterior titles or possessions contrary thereto, and with the charge of paying the rights of seigniory, if any be hereafter established in this said province. We furthermore reserve therefrom, for his majesty, all and every the necessary woods for the construction of forts, magazines, and other works which he has ordered, or may hereafter order; the same for the refitting and repairing the hulls of his vessels, whenever and as often as there shall be need thereof; and likewise the necessary land for royal roads and fortifications.

Given at New Orleans, under the seals of our arms, and countersigns of our secretaries, the 3d April, 1769.

(Signed) AUBRY & FOURCAULT.

Countersigned SONBRE & DUVERGE.

[*The title of the record book given in French in the certificate follows the above—it is as follows:*]

Record to serve for the recording of concessions granted by Messrs. the Governor and commander of the Province; commenced the 30th May, 1753.

(From the Spanish, page 44, printed record.)

No. 24, entitled in French "sale of property by Mr. and Mrs. J. Arnoult to Le Bourgeois and Gillard. *Collated:*"—

Know all who shall see these presents, that I, Don Juan Arnoult, perpetual magistrate and treasurer of penalties of the chamber of the council of justice and government of this city, and Doña Maria Delille Dupard, consorts, with license and express consent, which the said (wife) has asked of her husband, to execute this writing, and which he granted in as ample a manner as the law requires; and making use thereof, we do grant that by these presents we do sell truly, and with effect, to Joseph Gillard and Pedro Le Bourgeois, of this same vicinity, fourteen arpens and twelve toises front of land, with the depth which belongs to it, situated at sixteen leagues from this city, on this side of the river above; bounded on one side by lands of Felipe Panqueeme, and on the other by other lands of Enrique Fontenaut, the same which belongs to us; that is to say, seven arpens and six toises which belong to me, the said Doña Maria Delille, among other property set forth in the schedule of partition made by Don Andres Almonaster y Roxas, on the nineteenth of December, one thousand seven hun-

* This may mean that this person was a German, or it may be his name.—*Translator.*

dred and seventy-six, left by the decease of my late father; and the other seven arpens and six toises, which belonged to the minors, Delille Dupard, of whom I am curator, and to whom I, the said Don Juan Arnoult, have paid the portion at which the said land was appraised; all which is set forth in the documents of partition of the before mentioned property, *and protocol* of the year one thousand seven hundred and seventy-six; which fourteen arpens and twelve toises of land, of front, *with the depth which belongs to it*, we do sell to the before mentioned (persons), with all their ingresses and egresses, uses, customs, rights, and servitudes (*servitus*), free from charge and mortgages, as I, the present notary, the register thereof, do certify it to be, for the price of two thousand dollars, of the Mexican coinage; of which I have received one thousand dollars in cash, and the one thousand and one hundred dollars remaining to be paid, five hundred and fifty dollars in one year from the date, and the five hundred and fifty dollars remaining, and the last payment, in two years from the date. In consideration whereof, we do withdraw and separate ourselves from the right of property, useful possession, dominion, and seigniory which, to the said fourteen arpens and twelve toises of land we had and held; and all the same we do grant, renounce, and transfer unto the purchasers and their lawful representatives and assigns; to be by them as their own property possessed, exchanged, sold, or alienated at their will, in virtue of this writing, which at his pleasure and in his favor we execute in token of real delivery; whereby they are to be taken to have acquired their possessions without need of any other forms, of which we exonerate them, and bind ourselves to the eviction (*evictio*), security, and satisfaction of this sale, in all form of law, with our property possessed or to be possessed; and I grant, as here inserted, the clause *guarentigia* (*giving power to compel the execution of the contract, as if upon a formal judgment.—Translator*;) and I renounce the laws in my favor, with the general (law) which prohibits it.

And the said Doña Maria Delille being present at the execution of this writing, and the laws of the Emperor Justinian, **Belleñano, senatus consultus leges de Toro Madrid*, and the new Partidas and old constitution, and more that treat in favor of women, of the effect of which I have been advised by the present notary, and as having knowledge thereof, I renounce them, and do swear, by God our Lord, and a sign of the cross, conformably to law, that to the execution of this writing I have not been induced or intimidated by my said husband, nor by any other person; and I do declare that I do it of my free and spontaneous will, and that it results in my proper advantage and benefit; and that I will not reclaim this writing for my property, whether dotal, patrimonial, hereditary, or

*The usual renunciation of laws in favor of women, which the Spanish notaries insert in their contracts, are "*of the Emp. Justinian, the Senado Consulto Veleyano, Toro, Madrid y Partida.*" The above, *Bellenano*, no doubt, stands for *Veleyano*. The grammatical error of the sentence is in the original.—*Translator.*

adventitious; and that against this oath I have made no other pretension or claim of commutation to our very holy father, his nuncial legate, or whomsoever might and ought lawfully to grant it to me; and if of my [his] own motion it should be granted to me, I will not use it, upon pain of perjury and of falling into a state of degradation and infamy.

And we, the said Joseph Gillard and Pedro Le Bourgeois, being present at the execution of this writing, do accept it in our favor, receiving, as purchased, the said fourteen arpens and twelve toises front of land, and the depth which belongs to it, for the sum and conformity for which they are sold to us, we acknowledge to be delivered to our will; and we execute a formal receipt; and do bind ourselves to satisfy the aforesaid one thousand and one hundred dollars [$] of the Mexican coinage, at the specified times, fully and without any plea; to the fulfilment whereof we do bind our property, present and future, and especially we do hypothecate, with the condition of non-alienation, the said fourteen arpens and twelve toises of land, the which we will not sell or alien until the true and effectual payment of the said sum.

In testimony whereof, this instrument of writing is dated in the city of New Orleans, the thirteenth of January, one thousand seven hundred and eighty-seven; and the parties, whom I, the said notary, certify to be known to me, signed; the witnesses being Don Miguel Gomez, Don Solomon Mallines, and Don Antonio Blanc, residents of this city here present.

(Signed) JEAN ARNOULT,
MARIE DELILLE ARNOULT,
LE BOURGEOIS,
GILLARD.

Before me, FERNANDO RODRIGUEZ,
Notary Public,

(The following in French; copy conforming to the original being in my office for reference:)

In faith whereof, I have signed these presents, and have affixed thereto the seal of my office, at New Orleans, the thirtieth of June, one thousand eight hundred and thirty-six.
[L. S.]

(Signed) LOUIS T. CAIRE.

No. 25.

(From the Spanish; p. 46, printed record.)

Real Sale.—J'h Gillardo to Pedro Le Bourgeois:

Know all those who shall see this instrument of writing, that I, Joseph Gillard, a resident of this city, grant, that I do sell, truly and with effect, to Pedro Le Bourgeois, of this same place, the half of fourteen arpens of land and twelve toises of front, *and the depth which belongs to it*, situated sixteen leagues from this city, up the river, and on this same side; observing that my said one-half is

bounded on the one side by the lands of the purchaser, and on the other by lands of Enrique Fonteneau; the same which belongs to me from having purchased them, in company with the said Le Bourgeois, from Don Juan Arnoult, and Doña Maria Delille, his wife, as appears by the writing executed before Don Fernando Rodriguez, notary public that was, of this city, dated January thirteenth of the year one thousand seven hundred and eighty-seven; and I do sell it to the above mentioned person, with all its ingresses and egresses, uses, customs, rights, and servitudes, and with every thing which may be found thereupon, free from charge and mortgages, as I, the present notary, register thereof, do certify it to be, for the price of two thousand and three hundred dollars, which he will have to pay me at the end of this year.

In consideration whereof, I withdraw and separate myself from the right of property, useful possession, dominion, and seigniory, which, to the said seven arpens and six toises of land, I had and held; and all the same I do grant, renounce, and transfer to the purchaser, and his lawful representatives and assigns, that, as his own, he may possess it, sell, exchange, or alien, at his will, in virtue of this writing which in his favor I execute in token of actual delivery, whereby he is to be taken to have acquired his possession without need of any other proof, from which I do exonerate him; and do bind myself to the eviction, security, and satisfaction of this sale, in all form of law, with my property, present and future. I grant, as inserted here, the clause *guarantigia;* and I renounce the laws in my favor, with the general law which prohibits it.

And I, the said Peter Le Bourgeois, being present at the execution of this writing, do accept it in my favor, receiving, as purchased, the said seven arpens and six toises of land, in the sum and conformity for which they are sold to me. I acknowledge myself to have the delivery thereof at my will, and I execute a formal receipt, and oblige myself to satisfy the aforesaid two thousand three hundred dollars at the specified time, fully and without any plea; to the fulfilment whereof, I bind my person and my property, present and future; and especially I do hypothecate, with the condition of non-alienation, the said seven arpens and six toises of land of front, the which I do promise not to sell, or in any manner alien, until the real and effectual payment of the said sum.

In testimony whereof, this writing is dated in the city of New Orleans, the seventh of May, in the year one thousand seven hundred and eighty-nine, I, the said notary, do certify that I know the parties who signed it; the witnesses being Dn. F'do Ibanez, Dn. Fran'co Lopaz, Dn. Santiago Lémarie, inhabitants, and here present.

(Signed) LE BOURGEOIS,
JOSEPH GILLARD.

Before me, PEDRO PEDESCLAUX,
Notary Public.

(The following in French.)

Collated: Copy conforming to the original remaining in my office for reference.

In faith whereof, I have signed the present, and have affixed the seal of my office, at New Orleans, the second of July, one thousand eight hundred and thirty-six.

[L. S.]

(Signed) LOUIS T. CAIRE, *Not. Pub.*

*(No. 26, from the French, page 47, printed record.)

Sale of plantation and of slaves, 3d March, 1806—Pierre Le Bourgeois to John McDonough and Sd. Brown.

This third day of the month of March, of the year one thousand eight hundred and six, and the thirtieth of American independence, before me, Pierre Pedesclaux, notary public of the U. S. of America at New Orleans, appears Mr. Pierre Bourgeois, an inhabitant of the first *Coté des Accadiens*, this day, in this city, who, by these presents, declares that he sells, grants, surrenders, releases and transfers, from this time and forever, in full property, with warranty against all hindrances whatsoever, and all other mortgages, except those acknowledged by act in our record, the thirteenth day of May, one thousand seven hundred and eighty-nine, in favor of Etienne Reyne, for the security of the payment of the sum of seven thousand nine hundred and fifty-four dollars; of which mortgage, a part has been discharged by act of the 24th of December, one thousand seven hundred and ninety, in our record; another part by two other acts in the record of Michel Cantrelle, commandant of the *Coté des Accadiens*, the first of the twenty-second of February, one thousand seven hundred and ninety-four, and the second of the twentieth of April, one thousand seven hundred and ninety-six; one other mortgage executed in our record the eleventh of January last, in favor of all his creditors, for the security of the payment of two thousand forty-three dollars six *escalins* (*shillings ?*); of which mortgage full notice has been given to the purchasers, which I, notary register, do certify.

To Messrs. John McDonough, jun'r, Shepherd Brown, merchants in this city, present and accepting for themselves, composed of eighteen arpens, three toises and a half, of front to the river, and eighty of depth; adjoining above, to M'lle Marianne Lanoix, and below to Ambroise Haydel, which belongs to the vendor from having acquired it, the greater part, conjointly with Joseph Gillard, from Mr. Jean Arnold and Marie Delille, his wife, by act in our record, the thirteenth of January, one thousand seven hundred and eighty-seven; and from the said Joseph Gillard having afterwards transferred to him his right upon the land by act, also in our record,

*Note.—In the record the commencement of this act of sale is twice set out; the words printed in italics in the record, p. 47, being the same which are here translated, ending with the word "*declares*."—*Translator.*

the seventh of March, one thousand seven hundred and eighty-nine; and the rest from having been granted to him by the governor general of this province, under date of the twenty-seventh of January and twenty-sixth of October, one thousand seven hundred and ninety-one; the whole conformable to the two plans and title of grant which the vendor delivers in our presence to the purchasers, paraphed by us, the notary. He sells to them, in like manner, all the buildings, animals, tools, and utensils, and twenty-four (*pieces of*) slaves of the two sexes and different ages, named *Momus*, of thirty-seven to thirty-eight years, carman, laborer, and long-sawyer; *Cupidon*, of about the same age, a pick and axe negro; *Jupiter*, of twenty-five to twenty-eight years, laborer and carman; *Lindon*, of twenty-four to twenty-six years, *Narcissus*, *Augustin*, all three of twenty-four to twenty-six years, laborers, carmen; *Arlequin*, of the same age, good for everything; *John Louis*, of the same age, good for everything, and knowing how to drive a carriage; *Jean Pierre*, of fifteen years, a Creole, carman; *Scipio*, of twenty-four to twenty-six years, pick; *Paul*, *Franoçis*, *Raine*, of thirty to thirty-eight years, picks and axes; *Gabriel*, forty years, pick; *Raphael*, thirty-five years, squarer, long-sawyer, and a little of a carpenter; *Claude*, thirty-eight to forty years, pick; *Manon*, Creole, of forty-eight to fifty years; *Little Manon*, fifteen years, Creole; *Rose*, thirty to thirty-two years; *Isabelle*, same age; *Catharine*, of seven to eight years, Creole; *Charles*, five to six; *Zenon*, of three to four years; and *Eleanor*, of two years; which slaves the purchasers receive, such as they are, without warranty on the part of the vendor, except of the four maladies of insanity, epilepsy, leprosy, and king's evil, prescribed by law. The present sale passed between the parties under the aforesaid clauses; and, furthermore, for the price and sum of forty-six thousand five hundred dollars, which the said vendor declares and acknowledges to have received of the purchasers before the passing of these presents; in consideration whereof, the said Le Bourgeois desists from all rights of property possession and enjoyment in the objects hereinbefore sold in favor of the said purchasers, who may take possession thereof whensoever it shall seem good to them to do so, and henceforth dispose thereof as of things which have become proper to them by the effect of these presents. And the said vendor promises and binds himself to them to procure for them the raising of the aforesaid mortgages, which the said purchasers accept, and consent that the objects mortgaged shall remain so for the security of the creditors; for thus has it been agreed between the parties.

Done and passed at the office in New Orleans, the said day, month, and year, and in the presence of Messrs. Barthelemy Cam-

panel and Jean Marie Choppin, who, after the reading, have signed with the parties and us the notary.

Signed, LE BOURGEOIS,
JOHN McDONOUGH, Jr.,
SHEPHERD BROWN,
B'ME CAMPANEL,
CHOPPIN,
PIERRE PEDESCLAUX,
Not. Pub.

Collated: Copy conformable to the original remaining in my office for reference.

In faith whereof, I have signed the present, and have thereunto affixed the seal of my office at New Orleans the thirtieth June, one thousand eight hundred and thirty-six.

[L. s.]

Signed, LOUIS T. CAIRE, *Not. Pub.*

No. 29, (from the Spanish,) page 50, printed record, entitled, in French, "*Extract from the inventory of Delille Dupart.*"

Being upon the plantation which Don Pedro Delille Dupard left by his death, on the twenty-fifth of November, one thousand seven hundred and seventy-six, A. D., distant from the city of New Orleans about sixteen leagues up the river on the city side, composed of thirty-six arpens of front, and *the depth unto the lake*, bounded on one side, which is below, by a German, named Bautesa, and above by the plantation of a free mulattress, the widow of Juan Lacombre: Don Santiago Livandais, ordinary alcalde of the city of New Orleans, and in jurisdiction for his majesty, accompanied by me the notary; by Doña Michaela Michel, widow of the aforesaid Don Bartholome Macnemara, for representation of Doña Catharino Delille Dupard; Don Felipe Marigny de Mandeville, for the representation of Doña Francisca Delille Dupard; by Don Francisco Delille Dupard and Don Francisco Bronten, *curator ad litem* of the minor grandchildren of the aforesaid, [being the] children of Don Nicholas Delille Dupard, his son; (by) Don Juan Arnoul, for the representation of Doña Marianna Delille Dupard; the official despatch (*diligencia*) of the inventories was continued; and by Don Francisco Simon de Belille, Don Carlos de la Chaise, Don Luis Augustin Menellen, third persons named, the appraisement was made in the following form: first, the said third persons appraised the said land of the plantation at one thousand four hundred [and] forty dollars, at the rate of forty dollars the arpent—1440.

In which state, it being late, his worship ordered that this despatch should be suspended, to be continued when it should be convenient; and all the said inventoried goods remained in the care and charge of the said keeper of them, at the disposition of his

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worship, who signed it with the parties, *whom they knew*, (*que supieron*,) and the third persons named; which I certify.

LIVANDAIS,
CARLOS DE LA CHAISE,
FRANCISCO BRONTIN,
FRANCOIS SIMON BELILLE,
FRANCOIS DELILLE DUPARD,
B. MACNEMARA,
DE MANDEVILLE,
MENILLON,
J. ARNOUL.

Before me, ANDRES ALMONASTER Y ROXAS,
Notary Public.

I certify that the aforegoing copy is conformable to the head, * *ingiero*, and foot of the inventory and appraisement of the property of the deceased Don Pedro Delille Dupard, which remain among the acts of his administration, (mortuario,) to which I refer; and at the request of Don L. H. Guerlain, I give the present in New Orleans the seventh of June, in the year one thousand eight hundred and nine, and the thirty-third of American independence; which I sign and seal with the seal of my office.

Signed, STEPHEN DE QUINONES. [L. S.]

From the French; page 54, printed record.

No. 32.

Sale of land by Mr. Pierre Lanoix.

This day, the twenty-third day of the month of March, one thousand eight hundred and eight, and of the independence of the United States of America the thirty-second year, at 11 o'clock in the morning, appeared personally before us, Michel Cantrelle, judge of the parish St. Jacques, county of Acadie, there residing, Mr. Pierre Lanoix, an inhabitant there domiciled, who has declared and confessed to us, in presence of Messrs. Jean Dubart and Evariste Villavasse, the witnesses of assistance summoned and undersigned, that he has this day sold, granted, and conveyed, now and forever, with warranty of all rights, charges, hypothecations, alienations, and generally of all other hindrances whatsoever, to Mr. H. L. Guerlain, general agent of the company, known under the name of the Eastern Shore of Maryland Louisiana Company, his plantation situate on the left bank of the river, in *la longue vue de l'arramée*, at fifteen leagues above the capital, and which makes part of la vacherie, formerly belonging to Mr. Delille Dupard, which is composed of ten arpens seven toises and four feet of front, *upon the depth which shall belong to it conformably to the first titles in favor of the said Mr. Lisle Dupard*, and of which the said vendor answers,

* Error.

in all cases, for a depth of eighty arpens, which said land joins on the lower side to that of Mr. McDonogh, and on the upper side to that of Mr. Antoine Treque; the same land which he bought in three different portions, to wit: six arpens seven toises and four feet from M'lle Marianne Lanoix, by act passed at the record of Mr. Narcisse Broutin, notary public of New Orleans, the 14th April, 1806; two arpens of front, from Mr. Jean Baptiste Vicner, by act before us, the 29th July, 1807; and two other arpens of front from Mr. Jacques Materne, also by act passed before the said Mr. Narcisse Brontin, the 9th April, 1807. Upon which aforesaid plantation of ten arpens seven toises and four feet of front, there is a principal house, a cotton mill, a barn, a kitchen, screw mill, a meat house, a pigeon house, a stable, a carriage house, a yard, a garden, and many negro cabins; also, every thing which appertains unto it, consisting of divers animals of all kinds, farming utensils, and, in one word, every thing which is attached to said plantation. The aforesaid plantation, such as it now is, with every circumstance and dependance, sold to the said Mr. L. H. Guerlin, on account of the aforesaid company, for the price and sum of sixteen thousand dollars, payable upon the terms and conditions following, to wit: one-third has been paid cash, and counted to the satisfaction of the said vendor; another third, payable in the course of December of this present year; and the last third, in full payment, payable in the course of December, one thousand eight hundred and nine; and in consideration of which, the said Mr. Pierre Lanoix, has divested himself forever, of all the rights of property which he had in the aforesaid plantation, to convey them to the said Mr. L. H. Guerlain, who has accepted it in favor of the said company, to the end that they may be able to enjoy it, and to dispose of it, as of a property to them belonging, the said agent holding himself content from having seen, visited, and received it to his satisfaction; binding himself for and in the name of the said company, also their property, present and to come, and especially he hypothecates the said plantation in favor of the said vendor; the which he shall not have power to sell or alienate in any manner whatsoever, until he shall have made full and entire payment therefor, at the times as hereinbefore stated.

It is understood between the parties that the warranty of eighty arpens in depth, rests entirely upon the extent of front of the aforesaid plantation, and that the purchaser to whom shall be delivered, granted, and transferred to his profit, all the titles and certificates of property, of survey, and others annexed to the contract, shall do all that shall be in his power to make them available, and to obtain all the depth of which the said lands may be susceptible. Saving that, in the event that by these same titles he shall be able to obtain the free enjoyment of more than forty arpens of depth, the vendor binds himself and formally engages to indemnify him, and to reimburse to him the price at which the forty arpens shall be granted

or sold to him by the government, if it shall happen that they may refuse the free possession thereof to the said purchaser; promising, &c., renouncing, &c.

Done and passed the day, month, and year aforesaid, in presence of the aforesaid witnesses, who have signed with the contracting parties, and of us the judge aforesaid, who certifies hereunto.

(The original is signed) PR. LANOIX,
L. H. GUERLAIN,
JN. DOBAET,
EVARISTE VILLAVASSE,
MICHEL CANTRELLE.

True copy conforming to the original deposited in my office.

In testimony of which, I have signed and sealed with the [L. S.] seal of my office, in the parish St. Jacques, the twelfth July, one thousand eight hundred and thirty-six, the 61st year of the independence of the United States of America.

(Signed) L. M. TANEY, *Judge.*

No. 35.

[Entitled in English—Sale, Pierre Matene to Antoine Tregre.]

This day, the twenty-eighth day of the month of August, one thousand eight hundred and one, at nine o'clock in the morning, personally appeared before us, Dn. Michel Cantrelle, lieutenant of infantry, civil and military commandant of the parish St. Jacques, *Coté de Cababonache aux Acadiens*, there residing, Mr. Pierre Materne, an inhabitant of the said quarter, who has declared and acknowledged to us, in the presence of Messrs. Jdan Dubaet and Michel Simon, summoned witnesses of assistance, undersigned, that he has this day sold, granted, released, and conveyed, now and forever, and in full property, to Mr. Antoine Trégre, here present and accepting for himself, his heirs and assigns, the two arpens of land which he had in the lower part of the *de longue vue de l' aramée*, which joins on the lower side to the land of the said purchaser, and on the upper side to that of Mr. Noel Materne; the same two arpens of land which he bought from Mr. Jacques Materne, by an act of sale before us, the twenty-second day of the month of October of the last year. Upon the said land there is no edifice whatsoever, except some fences planted as barriers. The said sale or grant made in consideration of the sum of five hundred and twenty-five Mexican dollars, which have been paid cash, counted out by the said purchaser to the said vendor, who has divested himself of all the rights of property which he might have had in the aforesaid land herein mentioned, to transfer them to the said Mr. Antoine Trégre, who has accepted them in his own favor, that he may enjoy them hereafter, he and his heirs, as a property appertaining to him, holding himself content with having seen, visited, and received; obliging, &c., and renouncing, &c.

Done and delivered the day, month, and year herein aforesaid, as on the other part.

Note.—Mr. Pierre Materne has declared to us that he knows not to read nor write, and has made his ordinary mark in presence of the hereinbefore mentioned witnesses, who have signed with the said Mr. Antoine Trégre, and of us the commandant who certifies hereto.

Thus signed on the minute of this present:

Ordinary mark of PIERRE MATERNE,
ANTOINE TREGRE,
JN. DOBART,
MICHEL SIMON, and
MICHEL CANTRELLE.

The present copy delivered conforming to the original remaining deposited in the archives of this county of Acadie, parish Saint Jacques, the twenty-fourth day of December, one thousand eight hundred and six, and of the independence of the United States of America the thirty-first year.

(Signed) MICHEL CANTRELLE.

No. 36.

[Entitled in English—Exchange of land between John Berry and Antoine Trégre.

This day, the thirteenth day of the month of June, one thousand eight hundred, at nine o'clock in the morning, personally appeared before us Dn, Michell Cantrelle, lieutenant of infantry, civil and military commandant, there residing, Mr. Antoine Trégre, inhabitant of the second *coté des allemands*, who has declared and acknowledged to us, in the presence of Messrs. Bonaventure Godin and Michel Simon, summoned witnesses of assistance, undersigned, that he has made the following exchange with Mr. *Jeaune* Berry, which is, that the first mentioned party transfers to the last mentioned party the two arpens of land which he has in this jurisdiction, which adjoin on the lower side to the plantation of the late Phillippe Panqueme, and on the upper side to that of Mr. Jacques Materne, the same which he bought of this last mentioned party by an act of sale passed before us the sixteenth day of the month of May, one thousand seven hundred and ninety-seven, for the two arpens of front which the said Mr. Jean Berry bought from Mr. Charles Pecon, by an act of sale passed before us the eleventh day of the month of October of the last year, one thousand seven hundred and ninety-nine; provided that the said Mr. Jean Barry has given him in return for the said exchange a sum of fifty dollars, cash in hand paid. And in consideration whereof, they have conveyed from each to the other, reciprocally, their titles of property, that they may be enjoyed by both mutually as a property to them

belonging, holding themselves content, from having seen, visited, received them.

Done and passed the day, month, and year aforesaid, on the other side, in presence of the aforesaid witnesses, who have signed with the contracting parties, and of us, the commandant, who certifies hereunto.

Thus signed in the minute of this present:

ANTOINE TREGRE,
JEAN BERY,
MICHEL SIMON,
BONAVENTURE GAUDIN,
MICHEL CANTRELLE.

The present copy delivered conforming to the original remaining deposited in the archives of this county of Acadie, parish St. Jacques, the twenty-fourth December, one thousand eight hundred and six, and of the independence of the United States of America the thirty-second year,

(Signed) MICHEL CANTRELLE.

No. 39.

Sale of property—Jh. Soniat Dufossat to John McDonough.

This day, the thirty-first day of the month of March, of the year one thousand eight hundred and thirty-six, and the sixtieth of the independence of the United States of America, before Louis T. Caire, notary public in and for the city and parish of New Orleans, duly commissioned and sworn, and in presence of the witnesses hereinafter named and subscribed, were present Mr. Joseph Soniat Defossat, jr., living in this parish, and Mr. Jno. McDonogh, living in the parish of New Orleans, being this day in the city of New Orleans, who, for the more clear understanding of the sale which they are about to effect by these presents, make beforehand the exposition which here follows:

The late Catherine Delille, widow of Mr. Barthelemy Macnemara, had received, in the succession of her father, the land more particularly hereinafter described, situate in the State of Louisiana.

The said lady, widow Macnemara, deceased at Rouen, in the Kingdom of France, had made an olographic testament, dated at Rouen, the eighth of August, one thousand eight hundred and fifteen, by which she constituted her universal legatee Mr. Joseph Soniat Dufossat, senr., her nephew, a lieutenant of cavalry in the service of the King of France.

This testament was, after the decease of the said lady, widow Macnamara, clothed with all the formalities required by the laws, in order that it might be carried into execution.

Thus the said Mr. Joseph Soniat Dufossat, senior, has received in her succession, as legatee of the said widow Macnemara, the aforesaid land of which she was proprietor.

A duplicate of the said testament, which is found in the papers of the said Mr. Joseph Dufossat, senior, and which the said Mr. Joseph Soniat Dufossat produces, is hereunto annexed, after he has signed it, *ne varietur*, in presence of the notary and of the undersigned witnesses.

The said Dufossat, the elder, had himself made an olographic testament, of date, at New Orleans, the thirteenth July, one thousand eight hundred and twenty-three, by which he has constituted his universal legatee, the said Mr. Dufossat, jun'r, his brother.

After his decease, which happened in the course of the last year, his said testament was presented, opened, verified, and proved before the judge of the court of probat, in and for the parish of St. Tammany, State of Louisiana, in the course of the month of October, of the same year, and remains deposited in the record office of the said court.

The said late Mr. Dufossat, the elder, having left, among the number of his heirs, Mr. Joseph Soniat Dufossat, his father, the last, as his forced heir, would have been able, in claiming the part which to him belonged in that capacity, to have hindered the entire execution of the said universal institution, (or appointment of sole heir.) But the said Mr. Dufossat, father, resigned the said succession, and renounced, in favor of Mr. Dufossat, jun'r, his right of forced heir of the said late Mr. Dufossat, the elder. The whole according to an act received by the said Caire, notary, undersigned, the eighth February last.

By this same act, the said Mr. Dufossat, the father, stipulating for his son Theodore Dufossat, a minor, and as authorized specially to that effect by order of the court of probat, in and for Jefferson parish, dated the 5th February last, given upon a deliberation of a meeting of the family, set forth in said act, renounced for the said minor, Theodore Soniat, the succession of the said late Mr. Dufossat the elder, whose heir, in part, he was entitled to declare himself.

By the same act also, Messrs. Pierre Soniat, Valmont Soniat, Edmond Soniat, Melancy Soniat, and Gustave Soniat, and Mrs. Adeñe Charlotte Soniat, the wife, with power, of Mr. Hyacynth Hardy Bauséjour de Blois Blanc, all entitled to declare themselves heirs also, in part, of the said the late Mr. Dufossat, the elder, their brother, and alone entitled to succeed to him, with the said Mr. Dufossat, father; the said minor, Theodore Soniat, and the said Dufossat, jun'r, appearing each for the parts and portions fixed by the said act, renounced wholly and altogether, the succession of the said Mr. Dufossat, the elder.

So that the said Mr. Dufossat, jun'r, here appearing, finds himself to have, in fact, the sole right to the succession of the said the late Mr. Dufossat, the elder, his brother, of whom he is the sole representative, whether as his universal legatee, under his testament hereinbefore cited, or in virtue of being the sole and only heir after the renunciation which has been made of the succession by all

the co-heirs of the said, the late Mr. Soniat, the elder, according to the act hereinbefore dated and mentioned, and by another act which is therein dated and mentioned.

This exposition made, the parties appearing proceed to effect the sale agreed upon between them.

Accordingly, the said Mr. Joseph Soniat Dufossat, jr., appearing has, by these presents, sold, granted, made over, released, and surrendered, now and forever, but under the simple warranty of his acts and promises only, and without this, that by reason of any thing not proceeding from his personal acts, there be exercised any recourse, or any recovery had, against him, under any pretext or title, or for any cause whatsoever, to the said Mr. John McDonogh, accepting it, the purchaser, for himself, his heirs and assigns, the undivided third part of a tract of land situate in the State of Louisiana, at sixteen leagues distance from the city of New Orleans, on the same bank of the river Mississippi; the said land situated in rear of the plantation lately called the plantation Fonteneau, which plantation, having seven to eight arpens, more or less, of front upon the river, upon forty arpens in depth, was sold by the said the late Mrs. Macnemara, in her lifetime, to Fonteneau, so that the land which is the subject of these presents, is to take at forty arpens from the river Mississippi, and joined on one side to the said plantation Fonteneau, in the upper part of the plantation of Mrs. Fortin, and extends thence to Lake Maurepas, the lines opening in the depth; together with the undivided third part of all the rights and privileges, circumstances and appurtenances, of the said land, without any exception or reservation.

In like manner, as the said third part belongs to the said Mr. Dufossat, jun'r, he puts Mr. McDonogh for this third, in all his rights without exception, in order that he may exercise them in his place and stead, and as he would have been enabled to exercise them himself; but without any guaranty or recourse against him, as has been said hereinbefore.

The said Mr. Dufossat, jun'r, is proprietor of the said land of which the undivided third part is by him sold to the said Mr. McDonogh, in his double quality of universal legatee and of sole heir of the said the late Mr. Joseph Soniat Dufossat the elder, his brother, as has been hereinbefore set forth.

The said Mr. McDonogh has declared that he knows the right of property of the said widow McNemara, and of her vendor, to the said land, and has not desired that there should be here made any recital on that subject.

That the said Mr. McDonogh, his heirs and assigns, may enjoy, do, and dispose of the undivided third part of the said land, in full and entire property, from this day forward.

The present sale is made in consideration of the sum of one thousand dollars, which the said Mr. Soniat, the vendor, acknowledges to have received of the said Mr. McDonogh in specie, having the

currency of money, delivered out of the sight of the notary and of the subscribing witnesses—whereof pure and simple acquittance is made.

In consideration of this payment, the said Mr. Dufossat, vendor, places and substitutes the said Mr. Dufossat in all the rights of property, and all other rights which he has, and may have, in the third part of the said land; also in all the rights of recourse upon warranty, and all actions whatever, which, in the matter thereof, he may exercise against whomsoever, by what title and on what cause soever it may be, divesting himself of all the said rights and actions without exception, in favor of the said Mr. McDonogh, desiring that he may be thereof seized, and that he may use and dispose thereof in his stead and place, and in the same manner as he should have [been] able to do himself, as of a thing appertaining to him by virtue of these presents.

The said parties appearing declare, that they have not been able to exhibit the certificate of the bureau of hypothecations in the district [*arrondissement*] where the said land is situate, but that they discharge the said Caire, the undersigned notary public, from all the responsibility which the law may subject him to in relation to the exhibition of the said certificate; and that besides they bind themselves, jointly and severally, [*solidairement,*] to warrant him against all consequences on this account.

The said Mr. Dufossat, vendor, declares:

1st. That he intermarried, by his first marriage, with Mrs. Adelaide Doriecourt, his deceased wife, and who left for her sole heir Miss Félicité Soniat Dufossat, a minor, to whom he was guardian, [*tutor*]; but that according to an act received by Gustave Le Gardeur, notary in this city, the third day of October, one thousand eight hundred and thirty-five, he has rendered his guardianship [*tutelle*] account to his said daughter, then the wife of Mr. Adolphe Charbounet, and by him empowered; and that by the same act he has paid Mrs. Charbounet what was coming to her on the balance of said account, and that accordingly she has raised all the hypothecations which could result against him on account of said guardianship, from which he has been discharged.

2d. That with the exception of the tutorship of his daughter above named, he has not been charged with the tutorship nor curatorship of any minors, or interdicted or absent persons.

3d. That he has married in second wedlock Mrs. Celestine Genois, who will intervene in these presents to approve them, and to surrender in favor of Mr. John McDonogh all rights, whether matrimonial, dotal, or of paraphernalia, or other rights, and all the hypothecation which she is, or may be, entitled to exercise over the undivided third part which is sold to him in the said land.

To this effect intervenes Mrs. Celestine Genois, wife of the said Mr. Joseph Soniat, living with him, and by him duly and specially authorized, who, after reading has been made to her by the undersigned notary of the aforegoing, has said that she gives her consent to it, and approves it in all its purport. And the said Mrs. Dufos-

sat having, moreover, declared that it was her intention to surrender all the rights, actions, privileges, and hypothecations which she may or can have to exercise over the undivided third part of the said land, the subject of these presents, the subscribing notary has observed to her that, before receiving her signature to these presents, he desires to inform her of the nature of her rights, and of the effect of her renunciation; whereupon the said notary told to her, 1st, that the laws of this State of Louisiana give to a married woman a general implied hypothecation upon all the property of her husband, and even upon those of their community; 1st, for the restitution of her dowry, and for the replacing of her dotal property, which she brought at the time of her marriage—and this to count from the celebration of the said marriage. 2d, For the restitution or replacing of the dotal property which she may have acquired during her marriage, either by succession or donation—and this from the day when the succession may have fallen in her favor, or the donation may have taken effect. 3d, For indemnity of the debts which she may [have] contracted with her husband, as well as for the replacing of her own property transferred, from the day of the obligation or of the sale. 4th, For security of the obligations imposed on the husband, in case he shall have enjoyed the paraphernalian possessions of his wife, or for the reimbursement of their value, in case they shall have been aliened by his wife, and he shall have received the price of them, or have otherwise received the profits of them. And finally, that, in renouncing the rights above mentioned, she loses, now and forever, the faculty of resisting this present act, by herself, or by any other person.

And the said Mrs. Dufossat, acknowledging herself perfectly instructed of all the rights which the law grants to her in the property of her husband, and in the property of the community, has said and declared, that she persists, whatever may be the consequence, in the intention which she has hereinbefore expressed; and that of her own accord, and of her proper and free will, she renounces formally by these presents, in favor of the purchaser, his heirs and assigns, all hypothecation recorded, legal or implied, and all privileges and other rights which the laws of this State give her, or may give her, in the undivided third part of the said land, the subject of these presents.

Whereof act is made and passed, in the office at New Orleans, day, month, and year above given, in presence of Messrs. Charles Darcantel and Philippe Lacoste, witnesses summoned for this purpose, and having their domicil in this city, who have signed with the parties and with me, the notary, after reading made thereof.

(Signed) JOSEPH SONIAT DUFOSSAT,
JOHN McDONOGH,
CELESTINE SONIAT,
CHARLES DARCANTEL,
PHI. LACOSTE,
LOUIS T. CAIRE, *Not. Pub.*

True copy—conforming to the original deposited in my office for reference.

In testimony whereof, I have signed these presents, and have affixed to them the seal of my office, at New Orleans, the [L. S.] fifth April, one thousand eight hundred and thirty-six. (1) Out of the presence of her husband. (2) To all her rights matrimonial, dotal, paraphernal. And these interlineations approved.

(Signed) LOUIS T. CAIRE, *Not. Pub.*

Collated.—The comptroller of alienations certifies, that the present deed has been recorded this day in his office, in book No. 19, folios 137 and 138.

New Orleans, sixth April, one thousand eight hundred and thirty-six.

(Signed) REYNES, *Register.*

No. 40.

I, the undersigned Catherine Delille, widow of Mr. Barthelemy Macnémara, living at Rouen, rue St. Croix des Pelletiers, No. 76, declare to have made my testament as follows, to wit: I give and bequeath to Mr. Joseph de Saunhac Dafossat, my nephew, a lieutenant of cavalry in the service of his majesty, the king of France, now living at Versailles, all my succession, both personal and real, to the effect whereof I constitute him my universal legatee, charging him with the satisfaction of the legacies hereinafter mentioned. I give and bequeath to Miss Nunan O'Carol a life annuity of eight hundred francs, free of all charge, running from my decease, and payable every six months until the decease of the said young woman, when it shall cease, and the proportion then accrued shall be to the profit of my universal legatee. I give and bequeath to Lapierre Duponzas, my domestic, a life annuity of eight hundred francs, free of all charge, payable in the same manner and with the same condition as that herein before expressed, in regard to Miss O'Caroll; I give to him, besides, his chamber furniture and six pair of sheets, and the great oaken chest of drawers which is in the kitchen in the country. I give and bequeath to Marianne, my cook, the wife of Noger, a life annuity of eight hundred francs, free from all charge, payable in the same manner and with the same condition as herein before expressed, in regard to Miss O'Carol. I give, moreover, to Marianne, my cook, the wife of Noger, as her property, the bed in which she sleeps in my chamber at Rouen, together with hangings of Indian cloth, a woollen coverlid, a bolster, two woollen mattrasses, one feather bed, one hair quilt, the bedstead, and six pairs of sheets for servants. I name for my executor of my present testament, Mr. Ferdinand Macaclin, my friend, living in the street Champ Mallion, No. 21, Rouen; and I pray Mr. Saunhac, my nephew and my universal legatee, to offer a ring, or

the equivalent of six hundred francs, to our common friend, Mr. Maclaclen.

I desire to be buried plainly but decently.

Rouen, this eighth August, one thousand eight hundred and fifteen.

(Signed) CATHERINE DELILLE,
Widow Macnemara.

Collated.—True copy, conforming to the original annexed to an act in my record, of date thirty-first March, eight[een] hundred thirty-six.

In testimony whereof, I have signed these presents, and have affixed the seal of my office at New Orleans, the second day of April, one thousand eight hundred and thirty-nine.

[L. S.]

(Signed) LOUIS T. CAIRE, *Not. Pub.*

No. 41.

[Entitled in English, Title deed of Madam Macnamara to H. Fontenet, of 7 arpens in front on the river, by 40 deep.]

LAND OFFICE, EASTERN DISTRICT OF LOUISIANA:

Before us, Maurice O'Connor, Lieutenant of infantry, Commandant and Judge of the parish St. Jean Baptiste, there residing, personally appeared Madam Delille Macnemara, living in New Orleans, who has declared and confessed to us, in the presence of Messrs. Adam and Balthazer Viener, inhabitants living in the said parish of St. Jean Baptiste des Allemands, that she has this day sold, granted, made over, conveyed, and transferred, now and forever, a tract of land consisting of seven arpens of front, upon the ordinary depth, free and released from all debts, hypothecations, and other hindrances generally whatsoever, adjoining on the lower side to Gabriel Cloutier, and above to the land of Mr. Arnould, about eighteen leagues from New Orleans, in the parish of St. Jean Baptiste des Allemands, upon the right bank of the river going up, to Henry Fonteneau, (present and accepting,) the purchaser, for the price and sum of seven hundred dollars, which he has promised to pay the said lady in two terms, to wit: six hundred dollars in the course of the year one thousand seven hundred and eighty-five, and the remaining, one hundred dollars, in the course of the year one thousand seven hundred and eighty-six. Mr. Dupare becomes security for the payment of the said sum, and, in default thereof, is held to pay it himself.

The said purchaser charges and hypothecates all his estate, personal and real, present and to come; and also, that the said land shall not be sold or exchanged until full payment to the said lady. In consequence, the said lady, the vendor, has surrendered to the said purchaser all her rights of property, names, rights, and actions upon the said property, to enjoy the same from the present time as

a property to him belonging; the said lady reserves, that if there shall be found more than seven arpens, the said purchaser binds himself to pay her at the rate of one hundred dollars an arpent—for so they have agreed; promising, &c., binding, &c.

Done and passed at the *Allemands*, in our office, this day, the fourteenth of December, one thousand seven hundred and eighty-four, in the morning.

The parties interested, Mr. Dupare, and the witnesses, have signed with us, after the reading hereof.

(Signed) MAURICE O'CONNOR.

The present official copy delivered, conforming to the original, this 1st April, one thousand seven hundred [and] eighty-five, to Henry Fontenot.

As acquittance—5th February, 1787.

(Signed) DELILLE McNEMARA.

(From the Spanish.—Page 66 printed record.)

No. 3.

Entitled in English "mortgage—William Conway to Juan Joyce."

Mortgage: Be it known that I, Don Guillermo Conway, citizen and inhabitant of this city, do say, that Don Juan Joyce having constituted himself my surety to answer for four thousand three hundred [and] three dollars and some reals, which the goods of the deceased Don Mauricio Conway, my uncle, whose executor and heir I am, were to satisfy to Don Alexandro Baudin, as surety which he was (for) Don Olivermo Pillock, with whom he had a lawsuit for a sum of money, damages, injuries, and costs proceeding from the before named—

[*Note by the translator.—The residue of this recital, as it appears in the record, is so incorrectly copied—probably by a person unacquainted with the language—that all that can be safely said of it is that it sets forth the liability assumed by Joyce, and his request to be secured, and the consent of Conway, proceeding as follows:*]

and considering his just solicitude, I do by these presents, and as fully as possible, to satisfy the intent suggested by the said Don Juan Joyce, mortgage in his favor and for his protection, a plantation of my property situated on the Acadian shore (costa de Acadianos) and Houmas country, twenty-five leagues distant from this city, of thirty arpens of front, and the depth unto the lake, which I purchased of my said uncle thirteen years ago in the office of Don Pedro Pedesclaux; and the negroes Naas, of thirty-two years, Ithan, Louis, Estor, Bob, Cæsar, Alexander, Lock; and the negresses Nancy, Marianna, Marianna, Pollock, Francisca, and Suisan, all free from charge and mortgage; and I do promise not to sell nor alien it during the continuance in force of this writing, the contrary

not to avail or to be void; and not to pass any right to any third person, or other power which might prejudice that which by this writing I have conferred upon the said Joyce.

And I have bound firmly my person and property, present and future, with the clause *guarantigia contrato*, and with all power and submission, &c., and renunciation of laws in my favor, &c.

In testimony whereof, dated in this city of New Orleans, the seventh of November, one thousand seven hundred and ninety-eight, I, the notary, certify that I know the grantor who signed, the witnesses being Don Louis Neolere, Don Andres Fernandes, and Don Felipe Guenault, here present.

WM. CONWAY.

Before me, CARLOS XIMENES.

It is conformable to its original, which rests and remains in my power and archives, to which I refer; and at the request of a party I give the present, in this city of New Orleans, the eleventh of April, in the year one thousand seven hundred and ninety-eight.

(Signed) CARLOS XIMENES.

I certify and attest, that the mortgage contained in this instrument is annulled, in my public office, in the book used for this purpose, at pages ninety-three and over, and signed at the ninety-fourth.

New Orleans, eleventh of April, one thousand seven hundred and ninety-eight.

(Signed) PEDRO PEDESCLAUX.

From the Spanish.—Page 69 printed record.

No. 6.

Entitled in English "a copy of titles of land, &c."

Be it known to all who shall see this instrument of writing, that I, Don Mauricio Conway, an inhabitant of this city, do grant that I do sell, really and with effect, to Don Guillermo Conway, of this same place, a plantation, of my property, situated in the place called La Fourche, composed of twenty-seven arpens of land, of front, a little more or less, with the depth according to the title of grant which the most excellent Señor Conde de Galves gave to me by his decree dated the twenty-first of June, of the year one thousand seven hundred and seventy-seven; the said land being bounded on one side by lands of Don Patricio Conway, and on the other by other lands of M. Henderson; the same which belongs to me from having purchased it, with the greater portion, of Don Barthelemy Magnemara, by instrument of writing before Don Andres Almonaster y Roxas, notary public, that was, in this city, under date of the fourth of February, of the year one thousand seven hundred and seventy-six. In like manner I do sell to him, in the same place, eight arpens of land, of front, and forty of depth, being bounded

on one side by the lands of Me. Egnif, and on the other by other lands which formerly belonged to Don Patricio Conway, the same which belongs to me, from having purchased it, with the greater portion, of Pedro Landry and his two sons Pablo and Firmin Landry, by instrument of writing executed before Don Luis Judis, commandant of the said place, on the eighteenth of October, of the year one thousand seven hundred and seventy-six. And I do sell them to the aforenamed, with all their entrances and egresses, uses, customs, rights, and servitudes, free from charge and mortgages, as I, the present notary, register thereof, do certify, for the sum of six hundred dollars, which I have received in cash; and forasmuch as the delivery is not here made, I do renounce the exception of *non enumerata pecunia*, and I do execute a formal receipt. In consideration whereof, I do withdraw and separate myself from the right of property, possession, dominion, and seigniory which to the said thirty-five arpens of land I had and held; and all the same I do grant, renounce, and transfer to the purchaser and his lawful representatives and assigns, to be by them as their own possessed, sold, exchanged, or alienèd at their will; and in virtue of this instrument of writing, which in his favor I execute in token of real delivery, whereby he is to be taken to have acquired his possession without need of any other proof, whereof I acquit him, and do bind myself to the *eviction*, security, and satisfaction of this sale in all form of law, with my property present and future. I grant here, as inserted, the clause *guarantigia*, and I renounce the laws in my favor, with the general law which prohibits it. And being present at the execution of this instrument, I, the said Don Guillermo Conway, do accept it in my favor, receiving as purchased the said thirty-five arpens of land in the quantity and conformity in which they are sold to me, and I acknowledge to have received delivery according to my will, and I execute a formal receipt.

In testimony whereof, this instrument is dated in the city of New Orleans, the twenty-seventh of October, in the year one thousand seven hundred and eighty-six; and the parties whom I, the notary, attest to be known to me, did sign, Don Joseph Andrano de la Place, Don Luis Lalland Dapremond, and Don Solomon Malines, inhabitants of this city, being witnesses present.

MAURICE CONWAY,
WILLM. CONWAY.

Before me, FERNAND RODRIGUEZ, *Notary.*

It agrees with its original, which was passed before Don Fernando Rodriguez, notary public that was of this city, and remains in my power and archives, whereunto I refer; and upon the request of a party I give this, in this city of New Orleans, the twentieth of October, one thousand seven hundred and ninety-two.

Ori.—1, 2, *a.*

(Signed) PEDRO PEDESCLAUX,
Not'y Pub.

(From the Spanish; page 71, printed record.)

No. 7.

Entitled in English, "B. Magnemara to Maurice Conway."

Be it known to all who shall see this instrument, that I, Don Barto. Magnemara, an inhabitant of this city, do say, that Don Mauricio Conway and Don Alexandro Latil, of this place, did purchase of the chief of the Indians of the Bayagoula and Houma nations, called Colasabe, by cession which they made to them by instrument of writing, which was passed before me the fifth of October, of the year one thousand seven hundred and seventy-four, a tract of land of more than half a league, distant twenty-two leagues from this city, on this side, up the river, being bounded on one side by lands of an old Acadian named Pedro, and on the other by lands of Juan the Smith; which land, *por valdid*,* was possessed by the said nations in the time of the French ascendancy, with the permission of the government, which cession and sale was approved by his lordship, the governor general of this province, in continuation of the said instrument; and, in pursuance of the copy thereof, there was delivered to them a formal title, the first of November of the said year. And the said Don Alexandro Latil sold to me the part which belonged to him, with the exception of ten arpens of front, with the ordinary depth, which he reserved for himself, at the extreme upper part, by writing passed before the present notary, the twenty-third of December of the same year; and by another, executed before the same the twenty-fifth of April, in the year one thousand seven hundred and seventy-five, the said Don Alexandro Latil sold to me the said ten arpens of land before mentioned; by which two titles I purchased, and there now belongs to me, the tract of land which he purchased of the said chief of the said nations; wherefore, in the most effectual form of law, being certain and advised of that which is due to me in this case, [*por los prato*,]* that I do sell, really and in effect, to the said Don Mauricio Conway, the tract of land which, in company with the said Don Alexandro Latil, I purchased accordingly, and as it was granted to him, and I purchased it from him, with all its entrances and egresses, uses, customs, rights and servitudes, which concern, or may concern, or belong to the same, without excepting or reserving to myself any thing, and free from charge or mortgage, as I have exhibited it to be, by a certificate of the register thereof, for the sum of five hundred and sixty dollars, which he has paid me in cash; and, forasmuch as the delivery is not here made, I renounce the exception of *non numerata pecunia*, and do declare, that the just price and true value of the said piece of land are the said five hundred and sixty dollars; that it is worth no more; and if it

*Error.

is or should be worth more hereafter, of whatsoever such surplus of value, I make gift, grant, and donation, pure, mere, perfect, complete, and irrevocable, to the said purchaser and his [heirs, &c.,] called in law, done *inter vivos;* with the resignations and renunciations of the law of the royal ordinance, done in the Cortes de Alcaldi de *Genares, which treats of things sold or exchanged for more or less by half than their just value; and the four years to plead deceit or fraud where the same may be. And from this day of the date hereof, henceforth and forever, I do renounce, withdraw, and desist from the right of property, useful possession, dominion, and seigniory, which to the said piece of land I had and held; and all the same I do grant, renounce, and transfer to the purchaser, that, as his own property, held and acquired with the right of purchase, as this is, he may possess, sell, exchange, or alien it at his pleasure, in virtue of this instrument, which, in his favor I execute, in token of possession, title, power, and recourse; and if any other possession, more in form, should suit him, he may take it judicially or extra-judicially; and, in the meantime, until he does take it, I constitute myself his †*enquileria*, to give it to him when he requests it.

And as real vendor, as I am, I do bind myself to the eviction, security, and satisfaction of this sale in full form of law, and as may be most convenient, in favor of the purchaser, and with my property, present and future. And I grant, as inserted here, the clause *guarantigia;* and I renounce the laws in my favor, with the general which prohibits it in form. And I, the said Don Mauricio Conway, being present at the execution of this instrument, do accept it in my favor, receipting therefor; the said piece of land purchased for the sum of five hundred and sixty dollars, and as herein before described, I acknowledge to be delivered to me according to my pleasure, and I execute a formal receipt.

In testimony whereof, this instrument of writing is done in the city of New Orleans, the fourth of January, in the year one thousand seven hundred and seventy-six, the parties, whom I the said notary attest to be known to me, so executed and signed it; Fernando Rodriguez, Pedro Cardley, and Francis Leotand, being witnesses present.

(Signed) O. MANEMORA,
MAURICE CONWAY.

Before me,

ANDRES ALMONASTER Y ROXAS,
Not'y Pub.

(From the French; page 73, printed record.)

Before me, Philippe Carlier D'Outremer, judge of the parish of the Ascension, duly authorized there to exercise the functions of

*Alcala de Henares.
†*Error*—for inquilino, (*Lat. inquilinus,*) tenant.

notary public, personally appeared Madame Marie Conway, wife of Mr. Antoine Maurin, an inhabitant of this parish, the said lady being duly authorized by her husband for the purpose of the present act, who, by the present act, has sold, transferred, and set over to Mr. Jean François Laville, of New Orleans, a certain piece of land or plantation, situated in this parish in the place called the Houmas, and bounded on the upper line by a piece of land of General Hampton, heretofore the property of Mr. John Conway, and on the lower line by a piece of land belonging to Madame Lawes; the said piece of land having five arpens twenty toises of front to the river, more or less, opening by fifteen degrees, more or less; sold with the depth to which it is entitled according to its title, and according to the plan annexed to the present sale; sold also with all the buildings and enclosures which are found thereupon. The present sale made for the price and sum of eighteen thousand dollars, payable in the following manner, to wit: four thousand five hundred dollars payable in all March, one thousand eight hundred and twenty-four; four thousand five hundred dollars payable in all March, one thousand eight hundred and twenty-five; four thousand five hundred dollars in all March, one thousand eight hundred and twenty-six; four thousand five hundred dollars in all March, one thousand eight hundred and twenty-seven. And for the amount of the two first payments, Mr. Jean F'ois Laville delivers to Mm. Maurin two notes, signed by him, to the order of Mr. Phillippe Minor, of four thousand five hundred dollars each, payable in March, 1824, and March, 1825, and bearing even date with the present act; and by me the said judge paraphed *ne varietur*, to verify the identity thereof; which said two notes Mme. Maurin acknowledges to have received; and the two other payments of four thousand five hundred dollars each, to make up the total price of the sale of *eight* [eighteen] thousand dollars, are obligatory by the aforegoing stipulations.

And in consideration of the payment of the said sum of eighteen thousand dollars, effectuated as is herein before stipulated, the said Mme. Maurin, by the authorization of her husband, dispossesses herself of her right of property in the land herein before described, as well as the buildings and enclosures thereunto appertaining, to invest therewith the said Jean François Laville, that he may possess it in full property, in perpetuity to him and his heirs, with all the rights and advantages thereunto attached, warranting it to him free from mortgage, eviction, alienation, or reclamation, whatsoever; the said Mrs. Maurin reserving to herself a special mortgage upon the land which is the subject of the present sale, until complete payment of its purchase money. It is agreed between the parties that the plantation shall not be deliverable until twenty days from this date.

Madame Maurin, to assure the validity of the present sale, has declared that she made it of free will, and that she gave power to

the purchaser to make use thereof against her in judgment as property to him belonging, as well against her as against her heirs; binding herself to sustain and defend the present sale in favor of the purchaser, renouncing all her rights, which she says she is well acquainted with, to the property now sold, and never to come back against the said sale upon any pretence whatsoever; all the responsibilities of all damages and interests which may result to the purchasers; renouncing all the laws and customs which may be in her favor. And Mr. Jean François Laville, being personally present, has accepted the present sale, with the conditions there stipulated.

Done and passed at the parish of the Ascension, the twenty-eighth of the month of June, of the year of our Lord one thousand eight hundred and twenty-three, in presence of Messrs. Felix Gareau and Pre Martelle, witnesses summoned, and of me, the said judge.

(Signed) MARY J. MAURIN, *née Conway.*
MURIN,
F. LAVILLE.

Witnesses: P'RE MARTELLE,
F'X GAREAU.

CARLIER D'OUTREMER, *Judge.*

(From the Spanish; page 75, printed record.)

No. 9.

Be it known to all who shall see this instrument, that I, Califane, the chief named by the superior Government for the direction and command of the Indians of the Baiagula and Houma nation, in the most effectual form of law, being advised and acquainted with that which is due to me in this case, do grant by these presents that I cede, renounce, and transfer, unto Don Mauricio Conway and Don Alexander Latill, inhabitants of this city, a piece of land of more than half a league, being distant from this city twenty-two leagues on this side; which is bounded on the upper side by the lands of one named Juan Maestro De Henero, and on the lower side by the huts where at present dwell my two aforesaid nations of Indians, and [which they are] raising from the said location to establish them on the other side of the river. The true boundary is the lands of an old Acadian named Pedro, and from the surveys and divisions of boundaries which the before named [persons] will make, will result as well what the said piece of land comprehends, *as the persons* whom the boundaries divide. Which piece of land was held in property by a Frenchman named Blampen, whose estates, and amongst them the said piece of land, were sold at public auction for certain crimes whereof he was guilty; and there, judicially, it was purchased by another Frenchman named Teton, who was secretary of the Government fifteen or twenty years ago; who possessed it for some time, and it remained abandoned and

*valdia.** For which reason, with the permission of the Governor in the time of the occupation of his most christian majesty, I have possessed it, establishing thereupon the residence of the aforesaid two nations; and all that the said piece of land comprehends, in the same form† in which it was granted to me, in the name of my aforesaid Indians, I do grant, renounce, and transfer, unto the aforesaid Don Alexander Latill and Don Mauricio *Caunet*, without excepting or reserving to myself or to my said Indians anything, for the price of one hundred and fifty dollars, which they have delivered to me in merchandise, at current prices, to my satisfaction; and, forasmuch as the delivery is not here made, I renounce the exception of *non numerata pecunia*, and declare that the just price and true value of the said piece of land are the aforesaid one hundred and fifty dollars, and that it is worth no more; and that if it is or should be worth more, of whatsoever portion it may be, I do make thereof, to the said purchasers and their heirs, gift, cession, donation, good, pure, mere, perfect, complete, and irrevocable, called by the law *inter vivos;* and from the day of the date hereof, forever, I withdraw myself and my said Indians from whatsoever right to the said piece of land we had and held; and the whole we grant, renounce, and transfer, as already said, to the aforesaid purchasers, that, deserving the approbation of the governor general of this city and of its province, they may possess it as absolute owners; and I do bind myself and my said Indians never to contradict this sale on any account, or for any reason whatsoever, considering that I and my said Indians remain recompensed and satisfied with the aforesaid sum of one hundred and fifty dollars. And we, Don Alexandro Latill and Don Mauricio Caunet, being present at the execution of this writing, do accept, in our favor, the aforesaid cession hereinbefore made of the aforesaid piece of land for the aforesaid sum of one hundred and fifty dollars, which we have satisfied in cash; and we bind ourselves to present the copy of this writing to his lordship for his approbation, without which requisite we are not to take any possession.

In testimony whereof, this instrument is done in the city of New Orleans the fifth day of the month of October, in the year one thousand seven hundred and seventy-four. And the parties whom I, the notary, attest to be known to me, executes the same by means of Juan Bautista Roussene and Pedro Lato, interpreters, inhabitants of this city, whom I attest to be known to me; the witnesses present being Don Manuel Monteagudo, Don Pedro Conway, and Don Fernandez Rodrigues; and the parties and interpre-

* Probably *vacia*—vacant.

† Conformidad, *conformity, figure.*

ters signed—those who knew how, and for those who do not, a witness. I attest.

JUAN BAUTISTA ROUSSENE,
ALEXANDRO LATILL,
MAURICIO CAUNET,
MANUEL MONTEAGUDO, (as witness.)
Before me, ANDRES ALMONASTER Y ROXAS,
Not. Pub.

(From the Spanish.)

Having seen the sale solemnized by the two nations expressed in the aforegoing writing, I approve it. And making use of the power which the king has been pleased to confer upon me for the concession of lands, I do grant that which is specified to the purchasers, who will present themselves, that, in virtue of this writing and approbation, a title in form may be given to them.

UNZAGA.

Decreed by the Señor Don Luis de Unzaga y Amezega, brigadier of the royal armies and governor general of this province, who signed it in the city of New Orleans the fifth of October, one thousand seven hundred and seventy-four.

ANDRES ALMONASTER Y ROXAS,
Not Pub.

It agrees with its original, which was passed, and which remains before me, to which I refer. And upon the request of a party, I give the present, in five leaves, with this, in the city of New Orleans, the fifth of October, one thousand seven hundred and seventy-four. Interlined, "*in the city of New Orleans.*"

WOOD: WRIGHT:

Signed, ANDRES ALMONASTER Y ROXAS,
Not. Pub.

(From the Spanish.)

Don Luis de Unzaga y Amezaga, brigadier of the royal armies, governor, intendant, and inspector general of this province of Louisiana, having seen the aforegoing authenticated instrument and approbation of the writing of sale which the chief named Calofue has made, as well in his name as in that of the nations of Indians Baragulas and Humas, of his command, to Don Mauricio Canna and Don Alexandro Latil, inhabitants of this city, of a piece of land which the old French government granted to them, of more than half a league of front on the river Mississippi, on the Alabamahasse shore, in the district (*word unintelligible,*) bounded above by the plantation of one called Juan M'tro de Heriero, and below by that of an old Acadian named Pedro; and there being no opposition on the part of these, and causing no prejudice to the corresponding boundaries of their respective lands—making use of

the power which the king has granted to us, we do grant, in his royal name, to the said Don Mauricio Cannuet and Don Alexandro Latille, the aforesaid piece of land of more than half a league *of land* of front upon the river, on the aforesaid shore, with the ordinary depth of forty arpens, bounded above by the plantation of Juan M'tro de Henero, and below by that of the old Accadian named Pedro, to be by them disposed of and used as their own, governing themselves by the aforesaid sale, and the conditions provided for the government of the matter.

We give the present, signed with our hand and with the seal of our arms, and countersigned by the undersigned, secretary of this government. New Orleans, the first of November, one thousand seven hundred and seventy-four.

Signed, LUIS DE UNZAGA Y AMEZAGA.

By command of his lordship.

Signed, JOSEPH FOUCHER.

No. 10.

From the Spanish.

Real Sale.—Be it known to as many as shall see this instrument, that I, Don Alexandro Latill, an inhabitant of this city, do say that I did purchase in company with Don Mauricio Cannuet, likewise of this city, a piece of land about half a league, which the Indian nations Bazagula and Huma, possessed in property through the dominion which had been transferred to them by the course *Del Jumpo*, [*probably del tiempo of time*—TRANS.] by writing duly executed by Calafaud, their chief, which was passed before me, the present notary, on the fifth of October of this current year; which lands are situated at the distance of twenty-two leagues from this city; bounded on the upper side by lands of one named Juan Maestro de Henero, and on the lower side by lands of one named Peret: which writing was admitted by the governor general of this province the same day, month, and year: Wherefore, in the most effectual form which the law will furnish, being certain and advised of that which is due to me in this case, I do grant that by these presents I sell really and with effect, to Don Barthelemy Magnemara, of this city, the one half of the said piece of land which belongs to me, and may result from the surveys which were made, with the exception of ten arpens of front, with the ordinary depth, which, of the said land, I reserve for my property, and which are to be measured at the extreme upper part; and the rest I do sell to the aforesaid Don Bartolome Macnimaro for the sum of two hundred and four dollars, which has been paid to me in cash; and, forasmuch as the delivery is not here made, I renounce the exception of *non numerata pecunia;* and I declare that the said lands are not subject to mortgage or charge, as I have made manifest by the certificate of the register thereof; and that the just and true value of

the said lands, excepting the ten arpens which I have reserved for myself as hereinbefore expressed, is the aforesaid two hundred and four dollars, and that it is worth no more; and if it is or should hereafter be worth more, of whatsoever portion it may be, I do make to the said purchaser and his heirs, gift, grant, donation, good, pure, mere, perfect, complete, and irrevocable, which the law calls *inter vivos*, with the resignation and renunciation of the law of the royal ordinance, done in the Cortes de Alcale de Henares, which treats of things which are bought, sold, or exchanged for more or less than half of their just value, and the four years therein declared for the petitioning for the recision of the contract at its true value. This condition being, as it is, equal for both parties, neither may petition for fraud, neither enormously nor most enormously, in case there be such; and from the day of the date, henceforward and forever, I dispossess, disseize, and separate myself from the right of useful possession and seigniory, which, to the said land purchased of the aforesaid nations of Indians, I had and held, with the exception of the said ten arpens of front, with the ordinary depth, situated at the extreme upper part, as has been said, which I have reserved for myself; and the whole I do cede, renounce and transfer unto the said purchaser and his [heirs, &c.] that, as his own property, had and acquired by just title and right of purchase, as this is, he may possess, exchange, or alien it at his pleasure as absolute owner; and in token of possession, title, and recourse, I execute to him this writing, and give him the authenticated copies which he may ask, in order that, by their delivery, there may pass and be transferred to him **cuso* and true dominion of the said land, with the exception of the said ten arpens of front; and if it suit him to take any other possession more in form, he may make it judicially or extra-judicially without incurring any penalty; and in the mean time, until he does take it, I constitute myself his occupant, tenant, and possessor, to put him in it whenever he may request it; and I bind myself to the eviction, security, and fulfilment of this sale, in such manner that, in whatsoever suit, †*devote*, or controversy may arise thereupon, ‡*solase a la vos* and defence, and will follow it, at my own cost, until I leave him in quiet and peaceful possession. And I, Don Bartholome Magnimara, being present at the execution of this writing, do accept it in my favor with the aforesaid conditions, receiving as purchased the said land, with the exception of the said ten arpens of front, for the said sum of two hundred and four dollars, which I have paid in cash to the said Don Alexandro Latile; and both parties, to the firmness and fulfilment of what is said, do bind our persons and our property, present and future, giving full power to the justices of his majesty to bind us to its fulfilment with the rigor of definitive sentence,§

*Error.
†Error; probably *debate*, (*dispute.*)
‡Error; perhaps *tomare la voz—I will undertake the vindication.*
§Clause *guarantigia*, vide Febrero (ad cionado) tomo ii, page 48.—*Trans.*

passed and acknowledged. We renounce the laws in our favor, with the general law which prohibits it.

In testimony whereof, this instrument is done in the city of New Orleans, the twenty-third of December, one thousand seven hundred and seventy-four; and the parties whom I, the notary, attest to be known to me, executed and signed it; the witnesses being:

FERNANDO RODRIGUEZ,
DN. PEDRO COWLEY,
SOLOMON MALINES, present.

ALEXANDRO LATILE,
BARTHOLOME MAGNIMARA.

Before me, ANDRES ALMONASTER Y ROXAS,
Not. Pub.

It agrees with its original which was passed before me, and which remains in my power and archives, whereunto I refer. At the request of a party, I give the present in the city of New Orleans **en cuio foros*, with this, on the day of its execution.

In testimony of the truth.

ANDRES ALMONASTER Y ROXAS,
Not. Pub.

From the Spanish—page 79, printed record.

No. 11.

Well satisfied, as his actual presence proved, in the said operations, approving them, as we do approve them: Making use of the power which the king has granted to us, we do grant in his royal name, to the said Don Mauricio Conway, the said land behind or at the end of the forty arpens which his plantation contains, in the district of La Forche, upon ninety-six of front to the river, following the same direction which those run; to be by him, as his own, disposed of and used, governing himself by the said despatches, (*diligencias*,) and observing the conditions prescribed for the government of the subject, we give the present, signed by our hand, and sealed with the seal of our arms, and countersigned by the undersigned, secretary of this government, in New Orleans, the 21st June, 1777.

Signed, BERNARDO GALVEZ. [L. S.]

By order of his lordship:

Signed, JOSEPH FOUCHER.

(From the Spanish—page 80, printed record.)

No. 12.

Real sale.—Be it known, to as many as shall see this instrument of writing, that I, Don Alexandro Latill, an inhabitant of this city, do say, that I purchased, with Don Mauricio Connuet, with the approbation of the governor general of this province, from the chief

* *En cinco fojos?* in five leaves.—*Trans.*

of the Bayagula and Huma nations, a piece of land, of more than half a league, situated twenty-two leagues distant from this city, up the river; bounded on the one side by lands of one named Juan Miro de Henerez, and on the other by lands of an old Acadian named Pedro, by instrument of writing passed before the present notary the fifth of October of the past year, one thousand seven hundred and seventy-four; and, by another instrument, passed before the same the twenty-third of December of the said year, I sold to Don Bartholome Magnimara, of this place, the one-half of the said land, which is situated on this side of the river, and which I purchased with the said Don Mauricio Cannuet, with the exception of ten arpens of land, with the ordinary depth, which I have reserved thereof as my property, which were to be measured at the extreme upper part; wherefore, in the most effectual form of the law, being certain and advised of what in this case is due to me, I grant, by these presents, that I do sell really and with effect, to the same Don Bartholome Magnimara, the ten arpens of the aforesaid land which I reserved for myself, as before stated, for the sum of one hundred hard dollars, which he has paid to me in cash; and forasmuch as it is not done here, I renounce the exception of *non numerata pecunia*, and as free from charge and mortgage as I have manifested it to be by the certificate of the register thereof; and I declare that the just price and true value of the said ten arpens of land are the said one hundred dollars—that they are worth no more; and if they are or should hereafter be worth more, of whatsoever portion it may be, I do, to the said purchaser and his [heirs, &c.] make gift, grant, donation, pure, mere, perfect, complete, and irrevocable, which the law calls done *inter vivos;* with the resignation and renunciation of the law of the royal ordinance of Alcala de Henares, which treats of things bought, sold, or exchanged at more or less than one-half of their just price, and the four years therein declared for petitioning for the recision of the contract at its true value. This condition being equal for both parties, neither may petition for the law for fraud, neither enormously nor most enormously, in case such should be; and from the day of the date, henceforth and forever, I dispossess, disseize, and withdraw myself of and from the right of property, useful possession, and seigniory, which, to the said ten arpens of land, I had and held; and the whole I do grant, renounce, and transfer to the purchaser, that, as his own, he may possess, sell, or alien it at his pleasure in virtue of this writing, which, in his favor, I execute in token of possession, **voy*, and recourse; whereof, as real vendor, I consent that the present notary give him the authenticated copies which he may ask. I do bind myself that this writing, in all time, shall be certain and secure; and that neither I nor my heirs or successors will contradict or reclaim against it in any manner; and, in case we should do so, the

* Error.

same shall be taken to have approved and ratified it; and there shall remain supplied in it whatsoever defect of clause or special circumstance which should be included herein—adding force to force, and contract to contract, with whatever more the law may require, or which may be necessary—for which I bind my property, present and future. I grant, as herein inserted, the clause *guarantigia*, and renounce the laws in my favor, with the general [law] which prohibits it, in form. And I, Don Bartholome Magnimara, being present at the execution of this writing, do accept it in my favor, receiving thereby, as purchased, the ten arpens of land aforesaid for the sum and in the form they are sold to me; whereof, I grant myself to have received delivery at my pleasure. I renounce the proof [and] laws of delivery, laws of the thing not seen or received, fraud, and more [which may concern] the case; whereof I execute a receipt in form.

In testimony whereof, this instrument is done in the city of New Orleans, the twenty-fifth of April, one thousand seven hundred and seventy-five; and the parties whom I, the notary, attest to be known to me, so executed and signed it; the witnesses being:

FERNANDO RODRIGUEZ,
PEDRO COWLEY, and
SOLOMON MALLIENES, present.

ALEXANDER LATILE,
BARTHOLOME MAGNIMARA.

Before me, ANDRES ALMONASTER Y ROXAS,
Not. Pub.

It agrees with its original, which was passed before me, and remains in my power and archives, whereto I refer; and upon the request of a party, I give the present, in six leaves with this, in the city of New Orleans, the date of the execution.

In testimony of the truth.

Signed, ANDRES ALMONASTER Y ROXAS,
Not. Pub.

(From the Spanish—page 81, printed record.)

No. 13.

Real sale.—Be it known, to all who shall see this writing, that I, Don Mauricio Conway, resident of this city, do grant, by these presents, that I do sell, really and with effect, to Don Olivero Pollock, of this place, thirty-six arpens of land of front, and the depth unto the **side*, twenty-two leagues distant from this city, on this side of the river above, which, with the greater portion of one-half, I purchased with Don Alexandro Latile, the fifth of October of the past year, one thousand seven hundred and seventy-six. The said

* This word is written in the record *lado, side*; but from the other parts of the same document it would appear that it should have been *lago, lake.—Translator.*

Latile sold me that which belonged to him of one-half, and both writings were passed before the present notary. Notwithstanding that, in the first (writing,) there is not set forth the depth which the said piece of land has, but that it is more than half a league wide, representation having been made to the governors general of this province, Don Luis de Unzaga y Amezaga and Don Bernardo Galvez, the first gave permission to Don Luis Andry to proceed to the place of La Fourche, which is that of the said land, and to survey it and give possession of the extent required by what was sold. And, in effect, the said Don Luis Andry having executed it the ninth of October, one thousand seven hundred and seventy-six, in virtue of what was commanded by the said governor in his decree of the twenty-seventh of September, of the said year, measured the said land, in my presence, from the boundaries of Francisco Duhan unto the lands of Michael Chiaton—boundaries indicated (by) Calajabe, the Indian chief of the Bayagula and Houma nation, of whom I bought them **en cien pesos*, with the said Latile as aforesaid; and he found the said lands to contain 96 arpens of front, and the depth unto the lake. And forasmuch as I had not bought more than forty arpens of him, in virtue of what was commanded by the said Don Luis de Unzaga, he put me into possession of all the rest, unto the said lake, belonging to the aforesaid ninety-six arpens; all which, Don Bernardo Galvez, governor of this province, approved the twenty-first of July of the year last past, one thousand seven hundred and seventy-seven, and making use of the permission, which in the said commission he gave to me, to sell or alien the said land at my pleasure, being certain and advised of what in this case is due to me, I do grant by these presents, as already expressed, to the aforesaid Don Olivero Pollock, the said thirty-six arpens of front, in this form: twenty-one arpens of front, and the aforesaid depth, bounded on both sides by me the said vendor, for the sum of two thousand dollars; and fifteen arpens of front, and the same depth, bounded on the one side, in like manner, by me, the said purchaser, **for the sum of two thousand dollars; and fifteen arpens of front, and the same depth, bounded on the one side by me, the said purchaser*, and on the other, by Don Gabriel Pero, and free from mortgage, as I have made it manifest to be, from the certificate of the register thereof, for the sum of one thousand five hundred dollars; both making the sum of three thousand five hundred dollars, which I have received in cash, and which I acknowledge to have been delivered to me at my pleasure; and the delivery not being here made, I renounce the exception of *non numerata pecunia*, and execute a formal receipt, and declare that the just price and true value of the said thirty-six arpens of land, and depth aforesaid, are the said three thousand five hundred dollars, and that they are

* These words, *in one hundred dollars*, are probably erroneously transcribed in the record; the original is probably *en compania, in company.—Translator.*

† Apparently an error of repetition.—*Translator.*

not worth more; and if they are or should be hereafter worth more, of whatsoever portion it may be, I do, to the said purchaser and his [heirs, &c.] make gift, grant, donation, pure, mere, perfect, complete, and irrevocable, which the law calls *inter vivos*, with the resignation and renunciation of the law of the royal ordinance, done in the Cortes de Alcala de Henares, which treats of things bought, sold, or exchanged for more or less by half than their just price, and the four years therein declared for petitioning to rescind the contract at its true value; this condition being, as it is, equal for both parties, that neither may plead fraud or deceit, enormously or most enormously, in case he should do so; and from the day of the date, henceforth and forever, we disseize and withdraw ourselves of and from the right of property, useful possession, dominion, and seigniory, which, to **thirty said* arpens of land of front, and the said depth, I had and held; and the whole I grant, renounce, and transfer to the purchaser and his legal representatives and assigns, that, as his own, he may possess, sell, exchange, or alien it at his pleasure, in virtue of this writing in his favor, in token of real delivery, whereby he is to be taken to have acquired his possession without need of other proof, whereof I acquit him; and I bind myself to the eviction, security, and satisfaction of this sale in all form of law, and with my property, present and future. I grant, as here inserted, the clause *guarantigia*, and I renounce the laws in my favor, with the general law which prohibits it. And I, the said Pollock, being present at the execution of this writing, do accept it in my favor, the said thirty-six arpens of front, with the said depth, being purchased for the sum and conformity in which they are sold; and thereof I grant myself to have received delivery, and I execute my formal receipt.

In testimony whereof, this instrument is done in the city of New Orleans, the fifth of March, in the year one thousand seven hundred and seventy-eight; and the parties whom I, the said notary, attest to be known to me, so executed and signed it; the witnesses being:

Don Fernando Rodriguez,
Pedro Cowley, and
Estevan de Quinones, inhabitants of this city, present.

MAURICIO CONWAY,
OLIVERO POLLOCK.

Before me, ANDRES ALMONASTER Y ROXAS,
Not. Pub.

It agrees with its original, which, as it appears, was passed before Don Andres Almonaster y Roxas, notary public that was, and which at present remains in my power and archives of my custody,

* *Treinta dicho*; error—*dicho, said*, is masculine, singular; and there is nothing in the sentence to agree with it. The article which should precede the word *treinta* is omitted, and, as appears from the context, the word *seis*, six, after it.—*Translator.*

whereto I refer; and, upon the application of a party, I give the present. New Orleans, twenty-ninth of April, in the year one thousand seven hundred and ninety-four: *en md. siete y do—testado gravamen nova.*

Signed, CARLOS XIMENES.

(From the Spanish—page 83, printed record.)

No. 14.

Stephen de Quinones, notary public of this city and territory of Orleans for the United States of America: I certify, in the best form that I can and ought, that in the act of the administration (mortuario) of the deceased colonel of militia, Don Gilberto Antonio Prest. Maxent, in the principal file No. 1, folio 12, there is found a clause of his authenticated will, which is the thirteenth, of the tenor following:

"I declare, for what it may import, to have amongst my property a plantation in the place called Huma, about eighteen leagues from this city, which I purchased, for six thousand dollars, from Don Mauricio Conway, seven years ago, by writing, in one of the offices of this same city, with eighteen arpens of front, and with more than four leagues of depth."

In the *Incidente*, No. 2, of the administration (mortuario) of the said Sr. de H. Maxent, upon the sale of his property, at leaf three hundred and seventy-eight, there is found the act of the following tenor extracted:

"And as to the lands of Humas, let there be delivered the dispatch which is asked for, inserting therein the contents of the foregoing petition, in order that skilful persons may be named, who may appraise the lands and sell them for cash over and above the two-thirds, remitting its value on the first sure occasion.

JUAN VENTURA MORALES,
Licentiate, MANUEL SERAND."

At leaf three hundred and seventy-eight, over, of the same *incident*, is found the following representation made by Don Evan Torres, commandant, that was, in the parish of La Fourche, to the intendant of the royal treasury:

"Being on the road to this city, I received the foregoing despatch, which I have not been able to execute for the reason set forth. And it being necessary, according to the charge which it has imposed on me, that the valuation of the lands of the Humas should be executed with the greatest despatch, which cannot be done until my return to my post, I make known to you that there are in this city two persons, and they are Don Simon Ducourneau and Don Alexandro Lesassier, who have sufficient knowledge of the quality and circumstances of the said land; wherefore you can, if it seems good to you, order that it be appraised by the same."

"New Orleans, first August, one thousand seven hundred and ninety-eight. EVAN TORRES."

And following, there is the following decree:

New Orleans, the third of August, one thousand seven hundred and ninety-eight.

Considering what is set forth in the foregoing despatch, let Don Simon Ducourneau and Don Alex'r Lesassier proceed to value the Humas lands, they accepting and swearing before Morales.

Licenciado, SERRANO.

Before me, CARLOS XIMENES.

In the same *Incidente*, at leaf three hundred and eighty, over, there is found the following appraisement:

In the city of New Orleans, on the said day, month, and year, appeared Don Alexo. Lesassier and Don Simon Ducourneau, the appraisers named in these despatches, and being made acquainted with the aforegoing decree, as likewise with the aforegoing contents of the previous despatch of the eleventh of July last, did say, that, considering that they have knowledge, intelligence, and instruction concerning the Humas lands belonging to the succession of the deceased Colonel Don Gilberto Antonio de St. Maxent, about twenty-four leagues distant from this capital—aware that the amount of the said lands is composed of about twenty-nine arpens of front, with more than four leagues of depth, **las Tarabanz desde largo*—they do appraise them, having consulted between themselves and being agreed, at the sum of two thousand four hundred dollars, having regard to its being an uninhabited tract of land at this day, without buildings or anything of profit thereupon; which value is that which they give to it as being what they consider it worth, and no more. And they signed, which I, the notary, attest.

A. LESASSIER,
SN. DUCOURNEAU.

Before me, CARLOS XIMENES.

And following, there is this decree:

The present notary will proceed to the house of the printer; and, exhibiting to him the aforegoing appraisement of the Humas lands, will cause notice to be given in the newspaper thereof that the sale thereof will be made the thirteenth instant, at four o'clock in the afternoon, at this intendency.

MORALES,
Licenciado, SERRANO.

At folio three hundred and eighty-two there is the following:

Nota.—That I gave the notice to the printer, according to the order, to be inserted in the newspaper.

Attested: XIMENES.

* *Error;* unintelligible as written in the record; perhaps *las tasaban, they appraised them; y desde luego, and since then,* &c., ut infra.—*Translator.*

Here is placed the act extracted (to the printer Don Juan Bautista Fontaine) from the newspaper No. 11, published the ninth (9) August, one thousand seven hundred and ninety-eight; and it is the following:

(From the French.)

"For sale: a piece of land of twenty-nine arpens of front upon about four leagues of depth, situated twenty-four leagues from New Orleans, on the same shore, in the place commonly called Humas, belonging to the succession of the late Mr. de St. Maxent, appraised in the inventory at two thousand four hundred dollars, will be adjudged definitively the thirteenth instant at four o'clock of the afternoon at the Intendency to the highest offerer and last bidder."

(From the Spanish again.)

At folio three hundred and eighty-two, over, is found the following decree:

NEW ORLEANS, *6th August*, 1798.

Considering that the aforegoing decree is to be complied with, in case Don Evan Torres, commandant at La Fourche, should not have sold the lands, let the despatch be delivered to him, inserting the appraisement and this provisional order, that he may proceed with the said sale, for cash, whenever it exceeds two-thirds of the given value, there being no one who offers more; let him pay the sum which is due for **la construcion malceon*, placing a receipt in continuation of the despatches, and remitting them, with the rest, to this tribunal; making report before the thirteenth day of the current month—attending to what has been decreed in the particular.

JUAN VENTURA MORALES.
Licenciado, SERRANO.
Before me, CARLOS XIMENES.

At folio three hundred and eighty-six, over, there is found, in the French language, the following document:

(From the French.)

At La Fourche de Cherimanches, parish of the Ascension, and parish of Louisiana, this day, the eleventh of the month of August, of the year one thousand seven hundred and ninety-eight, we Don Evan Torres, captain of the regiment of provincial militia of the German infantry, and commandant of the aforesaid district: for the fulfilment and execution of the aforegoing decree, we went to the principal door of the church of the said parish, where upon coming out from the holy mass, there being collected together a great number of inhabitants and other individuals, we caused to be published and cried in a loud and intelligible voice, by Jean Bpt. Cazelon, the

* *Error, unintelligible.*

common crier, that we should proceed immediately to the sale and disposition, to the highest bidder, of the said land, situated in the place called the Houmas, belonging to the succession of the deceased Colonel Don Antonio Gilbert de St. Maxent, having twenty-nine arpens of front, with the depth that may be found, opening about thirty-six degrees, bounded above by the land of François Duhan, and below by that of Patrice Conway, with the condition that the highest bidder or purchaser should pay in cash the costs of the sale; and, accordingly, the said land being cried with a loud voice, and every person invited to bid, the first bid was made by Mr. Joseph Landry at the sum of one thousand one hundred hard dollars; afterwards, Mr. Ramon Braud bid one thousand one hundred and fifty dollars; Mr. Joseph Landry, one thousand two hundred dollars; Mr. Raymond Braud, one thousand three hundred dollars; Mr. Paul Landry, fourteen hundred dollars; Mr. Raymond Braud, fifteen hundred dollars; Mr. Joseph Landry, fifteen hundred and fifty dollars; Mr. Raymond Braud, sixteen hundred dollars; Mr. Joseph Landry, sixteen hundred and twenty-five dollars; and Mr. Louis Faure, the sum of one thousand six hundred and fifty dollars; and after many cries, and having waited more than two hours without any person having come to bid more, we have adjudged, and do finally and definitively adjudge, the said land, with all and whatsoever its appurtenances and advantages, such as it now is, to the aforesaid Mr. Louis Faure and his heirs forever, for the aforesaid sum of one thousand six hundred and fifty dollars, which he has paid to us in cash. And the said Mr. Louis Faure, who is here present, having accepted and approved the said adjudication in his favor, whereof he acknowledges himself to be satisfied and content, as having seen and visited the said lands, we have closed, and do close the present sale; and the said Mr. Louis Faure signed the present writing in presence of Messrs. Joseph Brigaud, Pierre Chieux, Joseph Courey, and Raymond Braud, witnesses of assistance required, who have signed with us, the day, month, and year as herebefore stated.

LOUIS FAURE,
JOSEPH BIJOUT,
PIERRE CHIEUX,
JOSEPH COUNET,
RAYMOND BRAUD,
EVAN TORRES.

And we, the commandant,

(From the Spanish.)

At folio two hundred and seventy-six, there is found the representation and decree following:

Don Pedro de Marigny, knight of the order of Don Luis, syndic of the creditors of the deceased Colonel Don Gilberto de San Maxent, in the acts of the administration of the said señor, &c., do say,

that there has been given to me a copy of an official paper directed to you by Don Miguel Cantrelle, commandant at the post of Cabarnoce, in this province, by which he made known to you that the plantation of this succession, situated at the post of La Fourche, and commonly called Huma, has not been bid for at more than one thousand five hundred dollars, notwithstanding that he has caused it to be cried on different Sundays; and that it appears to be proper to suspend the sale until the month of August next, continuing to cry it, and sending bills to all the doors for the information of the inhabitants. Saving your better opinion, I consent to it. From the acts of the administration of the said deceased, I set forth, that in the thirteenth clause of the will of the said señor, which runs at leaf twelve, he declares that the said plantation, situated in the place called Huma, about eighteen leagues from this city, he had for six thousand dollars from Don Mauricio Conway by writing, in one of the archives of this city, composed of eighteen arpens of front, with more than four leagues of depth; which plantation was appraised by three skilful persons, at folio eighty-eight of the same acts, at the sum of four thousand five hundred dollars; and considering that the bid which has been made for it, is not more than the half of the two-thirds for which, at the lowest, it is to be knocked off, and that, perhaps, those inhabitants being ignorant of the depth which the said land has, he may not have made the necessary enhancement for the true value which it ought to have, will you be pleased to order that, with the insertion of this representation and the provisional order which may be devolved thereupon, there be delivered a despatch in form to the said Don Miguel Cantrelle, to the end that, causing it to be cried until the month of August, remitting bills to the neighboring posts, admitting the bids which were made, and which were signed in continuation by the bidders, and making all acquainted with the depth which the said plantation has, he propose to them that it be sold in the whole or in parts as may appear to him most suitable; which bids, made in the month of August, he will remit to this tribunal, that, in view thereof, it may be pleased to determine the adjudication thereof according to the same, at the times and with the securities which the purchasers ought to give, with sureties suitable for the amount.

I pray your worship to be pleased to approve, and to order it to be done as I have petitioned, with justice, &c. &c.

PEDRO MARIGNY.

There are *rubricas:* granted as prayed.

I certify that the copies, as well as the extracts aforegoing, are conformable to their originals already cited, which, for the purpose of extracting the present, Mr. Bourgeois, secretary of the council of this city, exhibited to me, to whom I returned them corrected and made exact, and thereto I refer; as also the notice inserted, extracted from the printed book which was exhibited to me by Don

Juan Bautista Fontaine, which, corrected and compared, he preserves in his power, and to him I refer. And, upon the request of Don Daniel Clark, I give the present, in this city of New Orleans, the fourteenth of October, in the year one thousand eight hundred and eight, and the thirty-third of American independence; which I sign, and seal with the seal of my office.

[Corrections and interlineations noted. *Em'do capital, &c.*]

Signed, STEPHEN DE QUINONES, [L. S.]
Not. Pub.

From the Spanish—page 88, printed record.

No. 15.

Señor Intendent General:

I, Jose Zamora, with due respect, represent to you, that being charged by Don Luis Feaure, **crugagero* major of the town of Baton Rouge, to remit to him a copy of the proceedings of the auction which has been held of the lands of Otuma,† he being proprietor thereof in virtue of the adjudication which was made; and as, in order to be able to accomplish this, it is necessary that Don Carlos Ximenes, notary public, should despatch the said document, the originals being in the office in his custody, I pray you to be pleased to order that it be despatched: and this is a favor which he will receive from your equity.

NEW ORLEANS, 13th *November*, 1798.

Signed JOSE ZAMORO.

[*Note by Translator.* The words *como copide*, written in the record after the name of Zamora, as if expressive of his character or title, have no meaning. I take them to be *como se pide*, [as prayed] and to be the first words of the following order.]—

According to the prayer, it is decreed by the licentiate, Don Manuel Senaro, ‡*Altenon* general of the intendency, and intendent general, *ad interim*, of this province, for his Majesty, who §*lo en bruo* in New Orleans, the fourteenth of November, one thousand seven hundred and ninety-eight.

Signed CARLOS XIMENES.

On the said day, month and year, I, the notary, gave notice of the aforegoing decree to Don Joseph Zamora, in his person.

Attest. Signed, XIMENES.

(From the Spanish.)

Translation of the sale by auction of the Humas lands, to Don Luis Faures.

In the city of New Orleans, the third of December, one thousand seven hundred and ninety-eight, I, Don Pedro Derbigny, public

* Error. † Probably *Huma*. ‡ Error. § Error.

interpreter, and nominated in this cause, made the translation of the aforegoing despatches, in the following terms:

At Lafourche of Chetimaches, parish of Ascension, province of Louisiana: This day, the twelfth of the month of August, of the year one thousand seven hundred and ninety-eight, we, Don Evan Torres, captain of the regiment of provincial militia of the German infantry, and commandant of the aforesaid district, for the fulfilment and execution of the aforegoing decree, we went to the principal door of the church of the said parish, where, upon coming out from the holy mass, there being collected together a great number of inhabitants and other individuals, we caused to be published and cried, in a loud and intelligible voice, by Juan Bautista Cabezon, the common crier, that we should proceed immediately to the sale and disposition, to the highest bidder, of the said land, situated in the place called Humas, belonging to the succession of the deceased Colonel Don Antonio Gilbert de San Maxent, having twenty-nine arpens of front, with the depth that may be found, opening about thirty-six degrees: bounded above by the land of Francisco Duhan, and below by that of Patricio Conway, with the condition that the highest bidder or purchaser should pay, in cash, the costs of the sale: and, accordingly, the said land being cried, with a loud voice, and every person incited to bid, the first bid was made by Don Joseph Landry, at the sum of one thousand one hundred hard dollars. Afterwards, Don Ramon Brand bid one thousand one hundred and fifty dollars: Don Joseph Landry, one thousand three hundred dollars: Don Pablo Landry, one thousand four hundred dollars: Don Ramon Brand, one thousand five hundred dollars: Don Joseph Landry, one thousand five hundred and fifty dollars: Don Ramond Brand, one thousand six hundred dollars: Don Joseph Landry, one thousand six hundred and twenty-five dollars, and Don Luis Faure, one thousand six hundred and fifty dollars; and after various cries, and having waited more than two hours without any person having come to bid more, we have adjudged, and do finally and definitively adjudge the said land, with all and whatsoever its appurtenances and advantages, such as it now is, * *such as it now is*, to the aforesaid Don Luis Faure and his heirs forever, for the aforesaid sum of one thousand six hundred and fifty dollars, which he has paid to us in cash. And the said Luis Faure, who is here present, having accepted and approved the said adjudication in his favor, whereof he acknowledges himself to be satisfied and content, as having seen and visited the said lands, we have closed and do close the present sale. And the said Don Luis Faure signed the present writing, in presence of Messrs. Joseph Bugeaud, Pedro Arneux, Joseph Caunus, and Ramond Brand, summoned witnesses of assistance, who signed with us, on the said day, month and year—Luis Faure, Joseph Bugaut,

* Error of repetition in the record.

Pedro Arneux, Joseph Comes, Raymond Brand, and I, the commandant,

EVAN TORRES.

Which translation, the said interpreter declared that he had made well and faithfully, according to its real purport and meaning, and signed it before me, the notary, which I attest.

PEDRO DERBIGNY.

Before me, CARLOS XIMENES.

This is a copy of the sale by auction, translated from the French language to the Spanish, made to Don Luis Faure, of the lands called Humas, belonging to the relations of the deceased Colonel Don Gilbert Antonio de San Maxent, at La Fourche, before the commandant thereof, Don Evan Torres, which is found placed at leaf three hundred and ninety-four of the acts concerning the sale of the property of the said succession, whereto I refer: and, fulfilling the order, I give the present, at New Orleans, the fourth of December, one thousand seven hundred and ninety-eight: *dro quere.*

Signed CARLOS XIMENES.

(From the French—page 90, printed record.)

No. 16.

At La Fourche de Chetimachas, this day, the seventeenth of the month of August, of the year one thousand seven hundred and ninety-eight, before us, Evan Torres, commandant aforesaid, and the witnesses of assistance hereinafter named, came Joseph Landry, lieutenant of militia, and inhabitant of the aforesaid district, who acknowledged and declared to have received from the said commandant, Evan Torres, "the sum of one thousand six hundred and twelve dollars, in payment for the levee, road, ditch *de transpiration* and *écoulineurs* and bridge, made upon the land at the Humas, hereinbefore mentioned," and comprising the fees of the said commandant, costs of survey of the levee, &c., according to the decree of the tribunal, and also the sum of sixteen dollars two *escaliers* and a half, which has been calculated as in the account presented to the tribunal for the said levee, and thirty-two arpens and ten toises of levee, &c., at **garantie* nine dollars the arpent, making one thousand five hundred eighty-four dollars two reals and a half, instead of one thousand five hundred and sixty-eight dollars, as was calculated.

In faith whereof, he has signed the present receipt in presence of Messrs. Joseph Bageaud and Pierre Arnéux, summoned witnesses of assistance, who have signed with us the day, month and year aforesaid, J'h Landry, J'h Bageaud, P're Aneux, and we, the commandant,

EVAN TORRES.

* Error—probably *quarante et* (forty and).

Note of the last expenses, to wit:

Three official acts of the commandant, for the adjudication, P - - - - - - - - - -	16 4
Four notices of the adjudication, - - - - - - -	5 4
For the crier, - - - - - - - - - -	3
	$25

E. TORRES.

The succession still owes P. S. 2½.
Copy conforming to the original.
(Signed) E. TORRES.

(From the Spanish—p. 92, printed record.)

No. 18.

SENOR GOVERNOR GENERAL:

Don Mauricio Conway, an inhabitant of this neighborhood, with due respect represents to your lordship, that finding myself in the condition **desir* to establish myself above upon the land which, jointly with Don Alexo Latil, and with the approval of your lordship, we bought of the Humas Indians, whose lands are entirely †*salto de cercos*, and cleared more than a league in depth, ‡*de media que*, the cypress grove is distant more than a §*leguna* and a half from the river, without my having any right to it, your lordship not having granted to us more than forty arpens of the ordinary depth, with which short limit I cannot obtain the cypresses for the making of my fences, and for the other necessary and useful purposes of a plantation; wherefore, I humbly pray your lordship to be pleased, in consideration thereof, to grant to me all the depth which may be vacant ‖*tias o*, at the end of the aforesaid forty arpens of depth, forasmuch as the aforesaid land belongs altogether to me by means of the sale and cession which the said Mr. Latile made to me before the notary Don Andres Almonaster, on the fourth of January of the current year, of the portion or half which belonged to him. Praying, likewise, that your lordship be pleased to commission Don Luis Andry to come and give me possession of the said front and depth, placing the corresponding landmarks, and giving me an authentic instrument of the whole, for my government and security, for which favor I will be forever grateful.

(Signed) M. CONWAY.

NEW ORLEANS, *9th September*, 1776.

* Error.
† Error.
‡ Error—probably *de modo que*—so that
§ Error—probably *legua*—league.
‖ Error—*tias* means *aunts*. Perhaps *tierras*—lands, though the sentence defective without the preposition *de*—of.—*Tr.*

NEW ORLEANS, *27th September*, 1776.

The second adjutant of this place, Capt. Don Luis Andry, will proceed to the land described in this memorial, and will give possession to the petitioner of that (land) which may be vacant behind the forty arpens of depth which he possesses, following the same direction with the latter, it being vacant, and not prejudicing the surrounding neighbors; for which purpose, he will mark out the boundaries and landmarks, extending in continuation the despatches of his official acts in the premises, signing them with the aforesaid (party,) and he will bring them to me, to decree to him his title in form.

(Signed) UNZAGA.

Don Luis Andry, captain of infantry, and second adjutant major of the post of New Orleans, commissioned by his lordship, the governor general of this province, for the ends of the aforegoing memorial and decree: I certify, that I proceeded this day, the ninth of the month of October, of the current year, one thousand seven hundred and seventy-six, to the land which is treated of in the aforegoing documents, situated in the district of the parish of the Ascension, or of La Fourche, upon the left bank of this river Mississippi, about twenty-two leagues above the aforesaid capital, accompanied by the claimant, Don Mauricio Conway, and by the commandant of the aforesaid district, Don Luis Judice, whom I requested, he being acquainted with the language of the Houmas and Bayagoulas Indians, to be pleased to call the chief thereof, named Casabe, the vendor of the aforesaid land, in order that he might shew me the boundaries which are to limit it above and below; which having been in fact done, and the aforesaid chief having met us, he answered me through the medium of the aforesaid interpreter and commandant, that the land sold by him, and formerly occupied by the Indians, extended from the lower boundary of Francisco Duhan above, unto that of Miguel Chiasson below. These names do not actually agree with those which are found noted in the instrument of sale, in consequence of the said plantations having various times changed possessors since the aforesaid period; which intervening space I thereupon measured, drawing, for this purpose, through the **high land*, the lines necessary to certify me of its extent: (which lines are drawn upon the plan or sketch of my operations, which I delivered to the aforesaid claimant,) and I found that it contained ninety-six arpens of front, on the river, and widening itself by one hundred and twenty degrees towards its depth, from (on account of) its situation in the winding of the †stream, the upper line running coterminously with Franco Duhan, at fifty degrees of north towards the west, [N. 50° W.] and the

* The word *monte*, means wood, or forest, as well as *mount*, or *highland*. I do not know in which sense it is used here. It occurs again *post*.—*Tr.*

† *Ensenada*, is applied to a *creek*, a *small bay*, &c. indifferently.—*Tr.*

lower, coterminously with Miguel, at seventy of the north towards the west, [N. 70° W.]

The measuring of the aforesaid front having been completed, I proceeded to put the claimant in possession of the depth which was granted to him by the aforegoing decree; for which purpose, having returned to the upper line which is coterminous with the aforesaid Franco Duhan, I recognised, in his presence, the boundaries set up by me on the 22d of December, 1773, which still exist in the same situation, distance and direction, both of mulberry wood: the first of five feet and eight inches long, and six and a half by seven inches of quadrature, sharpened by seven inches at the head, and with a rough back; planted two feet and a half in the earth, at thirty-six toises and two feet distance from the actual bank of the river: and the second of six feet and four inches in length, and six by seven inches thick, with point, back and depth in the ground equal to those of the first, at one arpent, or thirty toises farther back towards the depth. Afterwards, I followed the same line in the aforesaid rhomb of fifty degrees north towards the west, [N. 50° W] unto the forty arpens of depth, opening, for this purpose, a path through the **monte*: at which point, I †caused to be planted a land mark of cypress, of six ‡feet in length, and six inches thick, squared, sharpened eight inches above, and with rough back, buried two feet and a half; and two arpens further §still, that is, at forty-two arpens from the river, I placed another boundary, equal, in all respects, to that just treated of.

This line being finished, I arrived at the lower one, coterminous with Miguel Chiasson, whom also I called, and proceeding to the measurement of the seven arpens which, by the decree of the 27th September, of this same year, were granted to him by the said governor, I caused to be planted in it two boundaries of mulberry wood; the first of four feet and ten inches in length, and about five inches and a half of thickness, of square shape, badly squared, sharp-pointed, twenty inches in the ground, at twenty toises distance from the actual bank of the river; and the second, four feet and eight inches long, and five inches square, badly squared also, with a point of seven inches, and buried likewise in the aforesaid depth of twenty inches, other twenty toises further in the depth; after which, I proceeded through the ‖*monte*, and in the said direction of seventy degrees of north towards the west, [N. 70° W.] in the same line, unto the forty arpens of depth, at which point I planted a boundary of cypress, six feet long, and

* *Vide* note, *ante*.

† The words written in the record are *Grige Clavar*, as a proper name; but evidently should be *hice clavar*, as I have translated them.—*Tr.*

‡ The word written in the record is *pesos*, (dollars,) but evidently should be *pies*, (feet.) —*Tr.*

§ The words written in the record are *lo davia*, which have no meaning, and should, no doubt, be todavia, (one word,) as translated.—*Tr.*

‖ *Vide* note *ante*.

seven inches thick, squared, with a point of ten inches, and a rough back, buried two feet and a half deep in the ground; and at two other arpens further still, that is, at forty-two arpens from the river, I caused to be planted another boundary of the same shape, and equal in all respects to the aforegoing, in order not to vary from the rhomb.

And in order that all the hereinbefore set forth may be made manifest, I give the present certificate, which I have signed, with the aforesaid party in interest, Don Mauricio Conway, and with the aforesaid commandant and interpreter in this matter, Don Luis Judice; the Indian chief, Calabe, and the two coterminous proprietors, Franco. Duhan, and Miguel Chiasson having declared that they did not know how to sign. All which I attest, on the said shore or district, date *ut supra.*

(Signed) LUIS ANDRY,
MAURICE CONWAY,
LUIS JUDICE.

Don Bernardo de Galves, colonel of battalion of infantry, of Louisiana, governor intendent and inspector general, *ad interim*, thereof, &c. In view of the aforegoing official acts, done by the second adjutant of this post, Captain Don Luis Andry, concerning the possession which he has given to Mr. Mauricio Conway, in virtue of the aforegoing decree of my predecessor, of all the vacant land behind, or at the back of the first forty arpens which he possessed upon ninety-six arpens of front, on the river, following the same direction therewith; and recognising these noted in the order of survey, and in the concessions of the surrounding neighbors, without causing any prejudice to them, and no claim being made by them, and being well agreed to, as their presence at the said operations establishes, (justifies;) approving them, (the operations) as we do approve them; making use of the power which the king has granted to us, we do grant, in his royal name, to the said Mr. Mauricio Conway, the said land behind, or at the back of the forty arpens which his plantation contains in the district of La Fourche, upon ninety-six of front on the river, following the same direction which those run; that as his own he may dispose of them, and use them, governing himself by the aforesaid official acts, and observing the conditions prescribed in the regulation of the matter. We give the present, signed by our hand, sealed with the seal of our arms, and countersigned by the undersigned secretary of this government.

(Signed) BERNO. DE GALVEZ.
By order of his lordship.*
(Signed) JOSEPH FOUCHER, [L. S.]

In New Orleans, *the 21st of June*, 1777.

* Written in the record, Gov'dor de Su Sen'r.—meaning, no doubt, *per orden de Su Senorio.—Tr.*

(From the French—page 97, printed record.)

No. 34.

Copy. Before us, Augustin Dominique Tureaud, judge of the parish of St. Jaques, in the county of Acadie, and residing there, appeared Mr. Antione Tregre, an inhabitant, domiciled proprietor, and resident of the parish of St. Jean Baptiste des Allemands, who, by these presents, hath sold, granted, released, transferred, from this time and forever, under all warranties of right, and especially from all sorts of disturbances, eviction, or general hindrance whatsoever, to Messrs. John McDonogh & Co., here present and accepting for themselves and their assigns, the immoveables and moveables hereinafter specified, that is to say,—1st. A plantation of four arpens front upon the depth which may belong to it, according to the title-papers and proces verbaux which the said vendor binds himself to deliver to the said vendees, and upon their first request, the said plantation, situated upon the left bank of the Mississippi, distant sixteen leagues, or thereabouts, from New Orleans—bounded above, by the plantation of Mr. Martin Dubourg, and below by that of the said purchasers; which land is derived to the vendor from two arpens which he acquired from Mr. Pierre Matherne, by an act passed at the registry (greffe) of this parish, the twenty-eighth day of the month of August, one thousand eight hundred and one; and the two other arpens, derived to the said vendor from an exchange which he made with Mr. John Berry, by act passed at our greffe, the third day of the month of June, of the year one thousand eight hundred. 2d. All the horned cattle which may be found upon the said plantation, or the environs, and which shall be found stamped A. T., as well as the increase which may come thereout, with the exception, nevertheless, of two cows, stamped as above, the one black, which the said Tregre declares to have sold to Mr. Alexander Chenet, and the other red, which he has sold to Mr. Jaques Chauvin. By express agreement, the vendor reserves to himself all the cypress which are lying upon the ground, at this time, upon the place which he has sold to the said Messrs. McDonogh & Co., as well as the right to fell, at his own convenience, fifty cypresses of his choice. This sale is made, with the reservations therein stipulated, for the price and sum of six thousand dollars, forming the price agreed between the parties; which sum will be payable as follows, to wit: fifteen hundred dollars payable in cash, which the said Mr. Tregre acknowledges to have received; fifteen hundred dollars the fourth day of the month of March, one thousand eight hundred and thirteen; fifteen hundred dollars, the fourth day of the month of March, one thousand eight hundred and fourteen; and finally, a like sum of fifteen hundred dollars, payable the fourth day of the month of March, in the year one thousand eight hundred and fifteen, which makes up, in the whole, the above mentioned sum of six thousand dollars; for the

which the vendor binds himself, by these presents, to give good and available acquittances and discharges, so soon as the last payment shall have been realized in the hands of the said vendor. In consequence of the above, and on the other part, the purchasers consent that the said place shall remain specially hypothecated until complete payment.

Done and passed at our office, in the parish of St. Jaques, county of Acadie, the fourth day of the month of March, of the year one thousand eight hundred and twelve, and of American independence the thirty-sixth year, in the presence of Messrs. Martin Dubourg and Duraudon Bringier, both summoned witnesses, and domiciled in this parish, who, as well as the parties, have signed with me, the above mentioned judge, after the reading [of the act.] Thus signed in the minute.

MARTIN DUBOURG, witness.

ML. DORADON BRINGIER, witness.

ANTOINE TREGRE,
JOHN McDONOGH, JR., & CO.
A. D. TUREAUD, *Judge.*

True copy from the original deposited in the archives of this parish for reference.

In faith whereof, I have delivered these presents, signed by my hand and sealed with the seal of my office, at the parish of St. Jaques, county of Acadie, the sixth day of the month of March, of the year one thousand eight hundred and twelve, and of the American independence the thirty-sixth.

A. D. TUREAUD, *Judge.* [L. S.]

(From the Spanish—page 98, printed record.)

[1.]—10*th August*, 1790.—*No.* 290, 1353 *arpens.*

SEÑOR GOVERNOR GENERAL:

Pedro Le Bourgeois and Joseph Gillard, inhabitants of this city, with due respect, present ourselves before your lordship, and do say that we have purchased from the magistrate, Juan Arnal, a plantation, situated fifteen leagues from this city, up the river, on this same side, composed of fourteen arpens and fourteen toises of front, with the ordinary depth of forty [arpens]; and, as the said depth is not sufficient for the number of negroes which we will place upon the said plantation, will your lordship be pleased to grant to us a second depth of forty arpens of land behind the said first ones, and upon the same lines with the said plantation. A favor which we hope in justice from the distribution which your lordship administers.

Signed, LE BOURGEOIS,
GILLARD.

NEW ORLEANS, 18*th January*, 1787.

The surveyor general of this province will establish these parties upon the forty arpens of second depth which they solicit, and upon the same boundaries with the plantation which they possess. Which official acts he will remit to me, to decree to the parties interested the corresponding title in form.

Signed, ESTEVAN MIRO.

SUPREME COURT U. S., *January term*, 1843.

JOHN MCDONOGH, plaintiff in error,
vs.
LAURENT MILLAUDON et al. } No. 61.

I, James Mandeville Carlisle, of the city of Washington, counsellor at law, appointed, under the order of court, in the above entitled cause, to be the sworn translator of the French and Spanish documents in the record thereof, being duly sworn in open court, do depose and say, that the aforegoing pages contain true translations of the said documents, diligently and faithfully made and rendered in the English language, according to the best of my learning and understanding in the premises.

J. M. CARLISLE.

Sworn before WM. THOS. CARROLL, *C. S. C. U. S.*
2d March, 1843.

TRANSLATIONS.

SUPREME COURT OF THE UNITED STATES.

No. 9.

McDONOUGH, PLAINTIFF IN ERROR,

vs.

MILLAUDON ET AL.

[TRANSLATION: MARKED J. M. C., 1844.]

(Plat.)

QUARTER OF THE HOUMMAS.

At New Orleans, the tenth of the month of February, in the year eighteen hundred and six, and the thirtieth year of the independence of the United States, I, the undersigned, Barthelemi Lafon, deputy surveyor of Isaac Brigs, surveyor general of the lands south of the Tennessee, certify the present plat agreeably to the surveys executed by Mr. Andry, surveyor, in March, 1804, and to those made by me of the river *Amet*, in December, of the year 1803, by which there results* in favor of Mr. William Conway a tract of land of 27 arpents of front upon the Mississippi, right bank, in the quarter of the Hoummas, at twenty-two leagues distance from New Orleans, bounded by two lines, the upper of which runs N. nine° fifteen minutes east,† having three hundred and fifty-one arpents of depth, and reaching upon the river Amit to ¼ of a league below Gray's creek. The second (lower) line being to run north 70 degrees east,† of the compass for the year 1776, and 67° E., for the present year, having in depth four hundred and fifty-five arpents, and terminating at Lake Maurepas, bounded on the south by the Mississippi, on the west by Daniel Clarke, on the north by the river Amite, and on the east by Lernon Laneau.

Having required the production of the title-papers, which manifest the property therein, divers documents relating thereto were presented, from which it appears that Messieurs Latille, McNamara, and Maurice Con-

*The word in the French copy is "*refutte*," probably miscopied from *resulte*, as assumed in the translation.—*Translator.*

†In the French copy *eg't*, no doubt for *est*, as translated.

J. & G. S. GIDEON, printers

way, purchased from the Hoummas Indians a tract of land composed of 96 arpents.

That Maurice Conway purchased from Latille and Barthelemi McNamara, the 4th January, 1776, the portion of this land which they had on their part.

That Maurice Conway obtained by grant the 22d June, 1777, from the Count de Galvez, then governor in this province, all the vacant lands in the rear of his plantation, following the lines which then formed his plantation, which ran, one north 50° east, and the other north 70° west.

That on the 27th October, 1786, W. Conway purchased from his uncle, Maurice Conway, a portion of land, A, B, G, E, of about 27 arpents front, with depth agreeably to the titles given him the 22d June, 1777.

That Maurice Conway sold to Oliver Pollock a portion of his land, E, F, L, K, which belonged, successively, to Dr. Anderson, whose successor sold it to Velonir Meer, and that the latter having died, five arpents and a half of this land, E, F, J, K, were purchased by his testamentary executor, Pierre Part; and finally, that Pierre Part gave these five arpents and a half of front, upon forty in depth, to W. Conway, in exchange for another tract of twenty arpents upon the other bank of the river, by an act, before the commandant of La Fourche, dated September, 1788.

So that W. Conway was, in the year 1804, possessor of a front, A, J, of 32½ arpents, of which he sold ten arpents, A, B, C, D, in 1805, to Mr. D. Clark.

By this sale there remained to him thereof only 22½ arpents of front, D, C, N, H, J.

But the partial surveys which were previously made by his uncle, and the deposits having increased the total front, which is found in an *ance*,* his uncle having sold to him with the condition of "more or less," and having bounded him by the neighbors Patrick Conway and Anderson, the four arpents and a half of surplus belong of right to him.

Furthermore, W. Conway having only purchased forty arpents of depth, E, F, H, I, from P. Part, and *Morice* Conway having reserved to himself the back lands, F, G, L, M, W. Conway claims the said back lands of the five arpents and a half, and those of the ten arpents, H, L, M, N, as the heir of his uncle.

Thus it appears by the above plat, that W. Conway possesses an irregular surface of land, D, C, G, M, L, H, E, F, bounded as is above specified.

In testimony whereof, I have given the present plat, and by this *proces verbal*, &c., &c.

(Signed,) LAFON,
Deputy surveyor.

(The rest appears in English.)

* Perhaps *aire*, area.

JOHN McDONOUGH, plaintiff in error,
vs.
LAURENT MILLAUDON et al.
} No. 9.

Supreme Court United States, December term, 1844.

I, James Mandeville Carlisle, of the city of Washington, appointed under the order of court in this cause to be the translator of a certain document of the French language, and now herewith returned, marked *J. M. C.*, 1844, being duly sworn in open court, do depose and say, that the aforegoing pages, in my handwriting, are a true translation of the said document, according to the best of my skill and learning in the premises.

J. MANDEVILLE CARLISLE.

Sworn before

WM. THOS. CARROLL,
Clerk of Sup. Ct. U. S.

5th December, 1844.

Filed, 5th December, 1844.